

THE NATIONAL ARCHIVES
LITTERA
SCRIPTA
MANET
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 24 1934 NUMBER 76

Washington, Saturday, April 18, 1959

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 165, Amdt. 1]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1) (i) and (ii) of § 914.465 (Navel Orange Regulation 165, 24 F.R. 2799) are hereby amended to read as follows:

- (i) District 1: 415,800 cartons;
 - (ii) District 2: 854,700 cartons.
- (Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: April 15, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and
Vegetable Division, Agricultural
Marketing Service.

[F.R. Doc. 59-3292; Filed, Apr. 17, 1959;
8:53 a.m.]

[Navel Orange Reg. 166]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 914.466 Navel Orange Regulation 166.

(a) **Findings.** (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the cir-

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CFR SUPPLEMENTS

(As of January 1, 1959)

The following supplements are now available:

Titles 10-13, Rev. Jan. 1, 1959 (\$5.50)

Title 14, Parts 40-399 (\$0.55)

Title 18 (\$0.25)

Title 26, Part 300 to end, Title 27 (\$0.30)

Title 32, Parts 700-799 (\$0.70)
Part 1100 to end (\$0.35)

Title 39 (\$0.70)

Title 43 (\$1.00)

Title 46, Parts 1-145 (\$1.00)

Title 49, Parts 1-70 (\$0.25)

Previously announced: Title 3, 1958 Supp. (\$0.35); Title 8 (\$0.35); Title 9, Rev. Jan. 1, 1959 (\$4.75); Titles 22-23 (\$0.35); Title 24, Rev. Jan. 1, 1959 (\$4.25); Title 25 (\$0.35); Title 26, Parts 1-79 (\$0.20); Parts 80-169 (\$0.20); Parts 170-182 (\$0.20); Title 32A (\$0.40); Titles 35-37 (\$1.25); Title 38 (\$0.55); Titles 40-42 (\$0.35); Title 46, Parts 146-149, 1958 Supp. 2 (\$1.50); Part 150 to end (\$0.50); Title 47, Part 30 to end (\$0.30); Title 49, Parts 71-90 (\$0.70); Parts 91-164 (\$0.40)

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circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information

for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 16, 1959.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., April 19, 1959, and ending at 12:01 a.m., P.s.t., April 26, 1959, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
 - (ii) District 2: 739,200 cartons;
 - (iii) District 3: Unlimited movement;
 - (iv) District 4: Unlimited movement.
- (2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753 as amended; 7 U.S.C. 608c)

Dated: April 17, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-3369; Filed, Apr. 17, 1959; 11:41 a.m.]

[Valencia Orange Reg. 161]

PART 922 — VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 922.461 Valencia Orange Regulation 161.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia

oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 16, 1959.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., April 19, 1959, and ending at 12:01 a.m., P.s.t., April 26, 1959, are hereby fixed as follows:

- (i) District 1: 231,000 cartons;
 - (ii) District 2: 184,800 cartons;
 - (iii) District 3: Unlimited movement.
- (2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: April 17, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-3368; Filed, Apr. 17, 1959; 11:41 a.m.]

[Lemon Reg. 788]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.895 Lemon Regulation 788.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as herein-after set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 15, 1959.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., April 19, 1959, and ending at 12:01 a.m., P.s.t., April 26, 1959, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 325,500 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: April 16, 1959.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-3331; Filed, Apr. 17, 1959; 9:11 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. of Export Regs., Amdt. 13]

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

Miscellaneous Amendments

1. Section 370.1 *Definitions*, paragraph (n) *Export control document* is amended to read as follows:

(n) *Export control document.* (1) "Export control document" means a validated export license; an application for export license, including any supporting documents; an ultimate consignee or purchaser statement; an application for Import Certificate, an Import Certificate, and a Delivery Verification, or other like document as specified in Parts 368 and 373 of this chapter; a shipper's export declaration presented to a Collector of Customs or Postmaster in connection with the clearance of any shipment for exportation to Canada or, under validated or general license, to any other foreign destination, whether or not authenticated by a Collector or Postmaster; a dock receipt or bill of lading issued by any carrier in connection with any exportation subject to the export regulations; and any other document issued by a United States Government agency pursuant to the export regulations as evidence of the existence of an export license for the purpose of loading onto an exporting carrier or otherwise facilitating or effecting an exportation from the United States of any commodity or commodities requiring an export license, or the reexportation of any such commodities.

(2) "Export control document" also means the following documents: Customs Form 3139, Application for Identification Card of Authorized Forwarding Agent or Exporter; Customs Form 3141, Identification Card of Authorized Forwarding Agent or Exporter or Employee

Thereof; and Customs Form 7512, Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit when used for Transportation and Exportation (T. & E.) or Immediate Exportation (I.E.).

2. Section 373.2 *Confirmation of country of ultimate destination and verification of actual delivery*, paragraph (d) (3) (v) *Applicant's responsibility for full disclosure* is amended to read as follows:

(v) *Applicant's responsibility for full disclosure.* In submitting an Import Certificate, the applicant is not relieved of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, whether or not inconsistent with the representations set forth in the Import Certificate. In accordance with the provisions of § 381.5 of this chapter, the applicant shall promptly bring to the attention of the Bureau of Foreign Commerce any change in the facts which were set forth in the Import Certificate and which were brought to his notice by the foreign importer or any other person subsequent to the date the Import Certificate is issued.

3. Section 373.65 *Ultimate consignee and purchaser statements*, paragraph (d) *Applications supported by consignee statements* is amended to read as follows:

(d) *Applications supported by consignee statements—*(1) *Applications supported by a multiple transactions statement.* An application for an export license, supported by a multiple transactions statement or by a certification extending the coverage period of a multiple transactions statement, shall contain the following statement:

This application is supported by the multiple transactions statement dated _____ from the named consignee to this applicant.

(2) *Applications supported by a single transaction statement.* Where a single transaction statement (Form FC-842) covers a purchase order for a commodity or commodities that require more than one license application, each license application supported by the single transaction statement shall contain the following certification in the space entitled "Additional Information," or on an attachment thereto:

I (We) certify that the quantities of commodities shown on all export licenses based on the single transaction statement dated _____, when added to the quantities shown on all additional applications pending in the Bureau of Foreign Commerce based on the same single transaction statement, including the present application, do not total more than the quantities shown on that statement. This single transaction statement was submitted in support of Application No. _____

(BFC case No. or if BFC case No. is unknown, the applicant's reference No., date of submission of the application to which the single transaction statement was attached, and Schedule B Nos. and processing codes shown on that application)

(3) *Requirements applicable to both single and multiple transactions statements—*(i) *Purchase order.* The statement from the ultimate consignee and purchaser shall relate only to purchase

orders placed by one ultimate consignee and one purchaser with one United States exporter. A purchase order covered by any consignee statement may involve several commodities. The Single Transaction Statement by Consignee and Purchaser (Form FC-842) shall relate to only one purchase order. The Multiple Transactions Statement by Consignee and Purchaser (Form FC-843) may cover more than one purchase order.

(ii) *Coded terms and translation requirements.* All abbreviations, coded terms, or other expressions having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Positive List units shall be converted into Positive List units. Documents in a foreign language shall be accompanied by an accurate English translation. Such translation need not be made by a translating service, but, if not, shall be certified by the applicant to be a correct translation. Exporters may provide their foreign customers with Form FC-842 and FC-843 translated into the foreign language of the customers. Copies of Form FC-842 and Form FC-843 in foreign languages will not be provided by the Bureau of Foreign Commerce. An explanation or translation of a consignee/purchaser statement shall be submitted on a separate document attached to the consignee/purchaser statement. (See § 381.8 of this chapter with regard to an alteration of an export control document.)

(iii) *Applicability of statements on consignee/purchaser statement to license applications and export licenses.* Information supplied by a consignee or purchaser on a consignee statement (Forms FC-842 or FC-843) cannot be construed as extending or expanding the specific information on a license application or an export license resulting therefrom. With regard to disclosure of facts pertaining to an individual export transaction, the export license application covering the transaction must be self-contained. The authorizations contained in the resulting export license are not extended by the general information contained in the consignee/purchaser statement with regard to reexportation from the country of destination or with regard to any other fact relative to the transaction as reported on the application.

(iv) *Liability of ultimate consignee or purchaser.* Misrepresentations, either through failure to disclose facts, concealing a material fact, or furnishing false information in the required consignee/purchaser statement, will subject the ultimate consignee and/or purchaser to administrative action by the Bureau of Foreign Commerce, including suspension, revocation, or denial of licensing privileges and denial of other participation in exports from the United States.

(v) *Applicant's responsibility for full disclosure.* In submitting Statements (Forms FC-842 or FC-843) from the ultimate consignee and foreign purchaser, the applicant is not relieved of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has

knowledge or belief, whether or not inconsistent with the representations of the ultimate consignee or foreign purchaser. In accordance with the provisions of § 381.5 of this chapter, the applicant shall promptly bring to the attention of the Bureau of Foreign Commerce any change in the facts which were set forth in the first or any supplementary Statement from the ultimate consignee or purchaser and which change was brought to his notice by the ultimate consignee or purchaser or any other person subsequent to the date the Statement was made.

(vi) *Applicant is not named on consignee statement.* If the license applicant is not named on the consignee/purchaser statement, the provisions of § 372.4(a)(2) of this chapter must be observed.

4. Section 373.67 *Switzerland*, paragraph (a) *Import Certificate requirement* and paragraph (e) *Amendment requests for increased quantities* are amended to read as follows:

(a) *Import Certificate requirement—*

(1) *Submission of certificate.* A license application for export of commodities to Switzerland must be accompanied by the original Swiss Blue Import Certificate issued to the Swiss importer by the Swiss Federal Department of Public Economy, Division of Commerce, Import and Export Control, covering the proposed exportation from the United States. Where the Import Certificate covers commodities for which more than one license application is submitted, the original of the Swiss Blue Import Certificate shall be attached to the first such application. Each subsequent application shall include the following certification in the space entitled "Additional Information," or on an attachment thereto:

I (We) certify that the quantities of commodities shown on all export licenses based on the Swiss Blue Import Certificate No. _____, when added to the quantities shown on all additional applications pending in the Bureau of Foreign Commerce based on the same Certificate, including the present application, do not total more than the quantities shown on that Certificate. This Swiss Blue Import Certificate was submitted in support of application No. _____

(BFC case No. or if BFC case No. is unknown, the applicant's reference No., date of submission of application to which the Swiss Blue Import Certificate was attached, and Schedule B Nos. and processing codes shown on that application)

(2) *Coded terms and translation requirements.* All abbreviations, coded terms or other expressions having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Positive List units shall be converted into Positive List units. Documents in a foreign language shall be accompanied by an accurate English translation. Such translation need not be made by a translating service, but, if not, shall be certified by the applicant to be a correct translation. An explanation or translation of a Swiss Blue Import Certificate shall be submitted on a separate

document attached to the Import Certificate. (See § 381.8 of this chapter with regard to an alteration of an export control document.)

(3) *Purchase order.* The Swiss Blue Import Certificate may cover more than one purchase order and may be concerned with several commodities. However, the Certificate shall relate only to purchase orders placed by a single importer with a single United States exporter.

(4) *Applicant's responsibility for full disclosure.* In submitting a Swiss Blue Import Certificate, the applicant is not relieved of responsibility for full disclosure of any other information concerning the ultimate destination and end use of which he has knowledge or belief, whether or not inconsistent with the representations set forth in the Swiss Blue Import Certificate. In accordance with the provisions of § 381.5 of this chapter, the applicant shall promptly bring to the attention of the Bureau of Foreign Commerce any change in the facts which were set forth in the Swiss Blue Import Certificate and which was brought to his notice by the foreign importer or any other person subsequent to the date the Swiss Blue Import Certificate is issued.

(5) *Certificate as a factor in licensing.* The Department of Commerce reserves the right in all respects to determine to what extent any license shall be issued covering commodities for which the Swiss Government has issued an Import Certificate. Generally commodities licensed by the Bureau of Foreign Commerce on the basis of dollar value will not be licensed in excess of the dollar value shown on the Swiss Blue Import Certificate and commodities licensed on the basis of units of measure will not be licensed in excess of the units shown on the Certificate. The Department of Commerce will not seek or undertake to give consideration to recommendations from the Swiss Government as to the United States exporter whose license application should be approved. A Swiss Blue Import Certificate will be used by the Bureau of Foreign Commerce as only one of the considerations upon which licensing action will be based, since quotas, end uses, etc., must remain important factors in export licensing.

(e) *Requests for amendments.*¹ A new or appropriately amended Swiss Blue Import Certificate shall accompany a request for an amendment of an export license which proposes a change in any party to the transaction named in the export license or any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the Swiss Blue Import Certificate previously submitted to the Bureau of Foreign Commerce. If a proposed quantitative amendment is in accordance with the previously submitted Swiss Blue Import Certificate, the amendment request shall include the fol-

¹ Section 380.2 contains other provisions applicable to amendments of applications covered by a Swiss Blue Import Certificate.

lowing certification on Form IT- or FC-763 or on a signed attachment thereto:

I (We) certify that this request for amendment of export license No. _____, if granted, will not exceed the total quantity authorized under Swiss Blue Import Certificate No. _____.

(5) Section 373.70 *Yugoslavia*, paragraph (a) *End-Use Certificate requirement* and paragraph (e) *Amendment request for increased quantities* are amended to read as follows:

(a) *End-Use Certificate requirement*—(1) *Submission of Certificate*. License applications for the export of commodities to Yugoslavia (including the area of Trieste under Yugoslav civil administration) shall be accompanied by the original End-Use Certificate covering the proposed exportation from the United States issued to the Yugoslav importer by the Federal Chamber for Foreign Trade in Belgrade. Where the End-Use Certificate covers commodities for which more than one export license application is submitted, the original of the End-Use Certificate shall be attached to the first such application. Each subsequent application shall include the following certification in the space entitled "Additional Information" or on an attachment thereto:

I (We) certify that the quantities of commodities shown on all export licenses based on the Yugoslav End-Use Certificate No. _____, when added to the quantities of commodities shown on all additional applications pending in the Bureau of Foreign Commerce based on the same End-Use Certificate, including the present application, do not total more than the quantities shown on that Certificate. This End-Use Certificate was submitted in support of application No. _____.

(BFC case No. or if BFC case No. is unknown, the applicant's reference No., date of submission of the application to which the End-Use Certificate was attached, and Schedule B Nos. and processing codes shown on that application.)

(2) *Relationship to purchase order*. The Yugoslav End-Use Certificate may cover more than one purchase order and may be concerned with several commodities. However, the End-Use Certificate shall relate only to purchase orders placed by a single importer with a single United States exporter.

(3) *Coded terms and translation requirements*. All abbreviations, coded terms, or other expressions having special significance in the trade or to the parties to the transaction shall be explained. Commodities shown in quantities other than Positive List units shall be converted into Positive List units. Documents in a foreign language shall be accompanied by an accurate English translation. Such translation need not be made by a translating service, but, if not, shall be certified by the applicant to be a correct translation. An explanation or translation of a Yugoslav End-Use Certificate shall be submitted on a separate document attached to the Certificate. (See § 381.8 of this chapter with regard to an alteration of an export control document.)

(4) *Certificate as a factor in licensing*. The Bureau of Foreign Commerce reserves the right in all respects to determine to what extent any license shall be

issued covering commodities for which the Yugoslav Government has issued an End-Use Certificate. Generally commodities licensed by the Bureau of Foreign Commerce on the basis of dollar value will not be licensed in excess of the dollar value shown on the Yugoslav End-Use Certificate and commodities licensed on the basis of units of measure will not be licensed in excess of the units shown on the Certificate. The Bureau of Foreign Commerce will not seek, or undertake to give consideration to recommendations from the Yugoslav Government as to the United States exporter whose license application should be approved. A Yugoslav End-Use Certificate will be used by the Bureau of Foreign Commerce as only one of the considerations upon which licensing action will be based since quotas, end uses, and other considerations remain important factors in export licensing.

(5) *Applicant's responsibility for full disclosure*. In submitting a Yugoslav End-Use Certificate, the applicant is not relieved of responsibility for full disclosure of any other information concerning the ultimate destination and end-use of which he has knowledge or belief, whether or not inconsistent with the representations set forth in the End-Use Certificate. In accordance with the provisions of § 381.5 of this chapter, the applicant shall promptly bring to the attention of the Bureau of Foreign Commerce any change in the facts which were set forth in the Yugoslav End-Use Certificate and which was brought to his notice by the foreign importer or any other person subsequent to the date the Yugoslav End-Use Certificate is issued.

(e) *Requests for amendments*.¹ A new or appropriately amended Yugoslav End-Use Certificate shall accompany a request for an amendment of an export license which proposes a change in any party to the transaction named in the export license or any increase in the quantity set forth in the export license if the proposed amendment is not in accordance with the Yugoslav End-Use Certificate previously submitted to the Bureau of Foreign Commerce. If a proposed quantitative amendment is in accordance with the previously submitted Yugoslav End-Use Certificate, the amendment request shall include the following certification on Form IT- or FC-763 or on a signed attachment thereto:

I (We) certify that this request for amendment of export license No. _____, if granted, will not exceed the total quantity authorized under Yugoslav End-Use Certificate No. _____.

This amendment shall become effective as of April 1, 1959.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,

Bureau of Foreign Commerce.

[F.R. Doc. 59-3247; Filed, Apr. 17, 1959; 8:46 a.m.]

¹ Section 380.2(d) contains other provisions applicable to amendments of applications covered by a Yugoslav End-Use Certificate.

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 20—RETENTION PREFERENCE REGULATIONS FOR USE IN REDUCTION IN FORCE

Notice to Employees

Paragraph (a) of § 20.6 is amended and paragraph (h) is added as set out below.

§ 20.6 Notice to employees.

(a) *Proposed action*. Each employee who is to be separated from the rolls, furloughed for more than thirty (30) days, or reduced in grade or pay in a reduction in force, under the regulations in this part, shall be given a notice in writing, stating specifically the action proposed in his case and the reasons therefor, at least thirty (30) calendar days, and not more than ninety (90) calendar days in advance of the effective date of the action except as provided in paragraphs (e), (f), and (h) of this section.

(h) *Extension*. Upon request, the Commission may grant prior approval to extend the maximum 90-day notice period prescribed in paragraph (a) of this section for an additional period not to exceed 90 days upon a showing that such an extension will protect employee rights or avoid administrative hardship. (Secs. 11, 19, 58 Stat. 390, 391; 5 U.S.C. 860, 868)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-3272; Filed, Apr. 17, 1959; 8:50 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[FSLIC-635]

PART 563—OPERATIONS

Give-Away Regulation

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of amendment of § 563.24 of the rules and regulations for Insurance of Accounts (12 CFR 563.24) as hereinafter set forth, and for the purpose of effecting such amendment, hereby amends said section as follows, effective April 18, 1959:

The second sentence of § 563.24 aforesaid is hereby amended to read as follows: "An insured institution shall not, for the opening or increasing of any account, give for any one such opening or any one such increase any give-away that has a monetary value in excess of \$2.50."

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

Resolved further that, as said amendment only relieves restriction, the Board hereby finds that notice and public procedure thereon are unnecessary under the provisions of § 508.12 of the general regulations of the Federal Home Loan Bank Board (12 CFR 508.12) or section 4(a) of the Administrative Procedure Act and, as said amendment relieves restriction, deferment of the effective date thereof is not required under section 4(c) of said Act.

Dated: April 14, 1959.

By the Federal Home Loan Bank Board.

[SEAL] HARRY W. CAULSEN,
Secretary.

[F.R. Doc. 59-3293; Filed, Apr. 17, 1959;
8:53 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7320]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Lord & Jealous

Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely: Wool Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1190 Composition: Wool Products Labeling Act; § 13.1212 Formal regulatory and statutory requirements: Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements: Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68-68(c)) [Cease and desist order, Hartley Lord and Bradford Jealous trading as Lord & Jealous, Norfolk, Mass., Docket 7320, March 21, 1959]

In the Matter of Hartley Lord and Bradford Jealous, Individually, and as Copartners Trading as Lord & Jealous

This proceeding was heard by a hearing examiner on the complaint of the Commission charging manufacturers in Norfolk, Mass., with violating the Wool Products Labeling Act by tagging and invoicing as 100 percent wool, woolen stocks which contained substantial quantities of reprocessed wool, and by failing to comply in other respects with labeling requirements of the Act.

After acceptance of an agreement providing for entry of a consent order, the hearing examiner made his initial decision and order to cease and desist which became on March 21 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Hartley Lord and Bradford Jealous, as individuals and as copartners trading as Lord & Jealous, or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for the introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen stocks or other "wool products", as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise falsely identifying such products as to the character or amount of the constituent fibers contained therein;

2. Failing to securely affix to or place on each such product a stamp, tag, or label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool product of any non-fibrous loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Hartley Lord and Bradford Jealous, as individuals and as copartners trading as Lord & Jealous, or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of woolen stocks or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from: Misrepresenting the character or the amount of the constituent fibers contained in such products on invoices or sales memoranda applicable thereto, or in any other manner.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and

form in which they have complied with the order to cease and desist.

Issued: March 20, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3250; Filed, Apr. 17, 1959;
8:46 a.m.]

[Docket 6677]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Columbus Coated Fabrics Corp. et al.

Subpart—Combining or conspiring: § 13.392 To boycott seller-suppliers; § 13.430 To enhance, maintain or unify prices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Columbus Coated Fabrics Corporation (Columbus, Ohio) et al., Docket 6677, March 23, 1959]

In the Matter of Columbus Coated Fabrics Corporation, a Corporation; Philan, Inc., a Corporation; and Zins Wallpaper Company, a Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer in Columbus, Ohio, of "Wall-Tex" washable fabric wall covering, and two of its distributors in the New York City area, with maintaining uniform fixed dealer resale prices, maintaining exclusive sales territories for its distributors, and boycotting price cutters and their suppliers.

After extensive hearings, the hearing examiner made his initial decision dismissing all but the charges of boycott and including an order to desist therefrom. Appeals of counsel for both parties were denied and on March 23 the Commission adopted as its own the findings and order in the initial decision.

The order to cease and desist is as follows:

It is ordered, That respondents Columbus Coated Fabrics Corporation, Philan, Inc., and Zins Wallpaper Company, all corporations, and their respective officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of wall-covering products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, cooperating in or carrying out any planned common course of action, understanding, agreement, combination or conspiracy with each other, or with persons not parties hereto, to threaten to boycott, attempt to boycott, or to boycott any corporation, partnership, association or individual who wishes to purchase such products.

By "Final Order", report of compliance was required as follows:

It is ordered, That the respondents, Columbus Coated Fabrics Corporation,

Philan, Inc., and Zins Wallpaper Company, corporations, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order contained in the aforesaid initial decision.

Issued: March 23, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3251; Filed, Apr. 17, 1959;
8:46 a.m.]

[Docket 6168]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Evis Manufacturing Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.170 Qualities or properties of product or service.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Evis Manufacturing Company et al., San Francisco, Calif., Docket 6168, March 23, 1959]

In the Matter of Evis Manufacturing Company, a Corporation, and Joseph T. Voorheis and Arthur N. Wells, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging sellers in San Francisco of the "Evis Water Conditioner" with advertising falsely that the product had a beneficial effect on water, changed its physical behavior, solved hard water problems, removed unpleasant flavors and improved the taste of beverages and food, saved soap, removed grease and scale, along with a variety of other similar claims.

Following hearings in due course, the case was dismissed by the hearing examiner, remanded for the taking of further evidence, and again dismissed. Upon complaint counsel's appeal therefrom, the Commission considered the entire record, vacated the initial decision, and on March 23 issued its own decision in lieu thereof.

The order to cease and desist is as follows:

It is ordered, That respondent Evis Manufacturing Company, a corporation, and its officers, and respondent Arthur N. Wells, individually and as an officer of said corporation, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their product, known as the "Evis Water Conditioner", or any other product of substantially similar design or construction, whether sold under the same name or under any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

That their said product:

- (a) Has a catalytic effect on water;
- (b) Changes the physical behavior of water;
- (c) Will solve hard water problems;
- (d) Will make hard water soft;
- (e) Will cause hard water to feel, taste or act softer, or have any of the attributes or characteristics of soft water;
- (f) Will remove or reduce unpleasant odors or flavors from water;
- (g) Will make water taste better;
- (h) Will improve the taste of beverages or foods;
- (i) Will require the use of less soap;
- (j) Will reduce the cost of heating water;
- (k) Will eliminate or reduce the harshness of water to the hands;
- (l) Will cause dishes or glassware to dry without leaving water stains;
- (m) Will remove grease;
- (n) Will prevent or remove scale;
- (o) Will prevent, reduce or eliminate scum;
- (p) Will prevent, reduce or eliminate rust stains;
- (q) Will prevent, reduce or eliminate corrosion or retard pitting of metal;
- (r) Will improve the action of chemicals used for water softening purposes;
- (s) Will leach out alkali and salts in soil;
- (t) Will improve the growth or production of agricultural or orchard products or plants;
- (u) Will improve the texture or structure of soil;
- (v) Will reduce the amount of water required for agricultural irrigation;
- (w) Has any beneficial effect upon water.

It is further ordered, That the complaint be, and it hereby is, dismissed as to individual respondent Joseph T. Voorheis.

By "Findings as To the Facts, Conclusion and Order", report of compliance was required as follows:

It is further ordered, That respondent, Evis Manufacturing Company, a corporation, and respondent, Arthur N. Wells, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 23, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3252; Filed, Apr. 17, 1959;
8:47 a.m.]

[Docket 7112]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Milwaukee Allied Mills, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely: Wool Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1190

Composition: Wool Products Labeling Act; § 13.1212 Formal regulatory and statutory requirements: Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 Formal regulatory and statutory requirements: Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68-68(c)) [Cease and desist order, Milwaukee Allied Mills, Inc., et al., Milwaukee, Wis., Docket 7112, March 23, 1959]

In the Matter of Milwaukee Allied Mills, Inc., a Corporation, and Mark E. Atwood and William L. Armstrong, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer in Milwaukee, Wis., with violating the Wool Products Labeling Act by invoicing and labeling as 70 percent woolen and 30 percent non-woolen fibers, woolen waddings or interlining materials which contained substantially less than 70 percent wool, and by failing to label certain wool products as required by the Act.

On the record made in the usual hearings, the hearing examiner made his initial decision and order to cease and desist from which respondents appealed. Denying the appeal, the Commission on March 23 adopted as its own the findings and order in the initial decision.

The order to cease and desist is as follows:

It is ordered, That respondents Milwaukee Allied Mills, Inc., a corporation, and its officers, and Mark E. Atwood and William L. Armstrong, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for the introduction into commerce, or offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the Act and the Wool Act, of woolen waddings or interlining materials or other "wool products" as such products are defined in, and subject to, the Wool Act, do forthwith cease and desist from misbranding said products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein;

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

a. The percentages of the total fiber weight of such wool product exclusive of ornamentation not exceeding 5 percent of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where the percentage by weight of such fiber is 5 percent or more, and (5) the aggregate of all other fibers;

b. The maximum percentage of the total weight of such wool product of any non-fibrous loading, filling, or adulterating matter; and

c. The name or registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof, in commerce, as "commerce" is defined in the Wool Act.

It is further ordered, That Milwaukee Allied Mills, Inc., a corporation, and its officers, and Mark E. Atwood and William L. Armstrong, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of woolen waddings or interlining materials, or any other products or material in commerce, as "commerce" is defined in the Act, do forthwith cease and desist from: Directly or indirectly misrepresenting the constituent fibers of which their products are composed or the percentages or amounts thereof in sales invoices, shipping memoranda, or in any other manner.

By "Final Order", report of compliance was required as follows:

It is ordered, That the respondents, Milwaukee Allied Mills, Inc., a corporation, Mark E. Atwood and William L. Armstrong, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order contained in the aforesaid initial decision.

Issued: March 23, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3253; Filed, Apr. 17, 1959;
8:47 a.m.]

[Docket 7311]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Jordan Marsh Co.

Subpart—*Advertising falsely or misleadingly*: § 13.155 *Prices*: Exaggerated as regular and customary; fictitious marking; § 13.175 *Quality of product or service*; § 13.280 *Unique nature or advantages*. Subpart—*Misrepresenting oneself and goods*—*Prices*: § 13.1805 *Exaggerated as regular and customary*; § 13.1810 *Fictitious marking*. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure*: § 13.1852 *Formal regulatory and statutory requirements*: Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Jordan Marsh Company, Miami, Fla., Docket 7311, March 20, 1959]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a department store

in Miami, Fla., with violating the Fur Products Labeling Act by advertising in newspapers which represented prices of fur products as reduced from so-called regular prices which were in fact fictitious, and represented certain mink products falsely as "Each * * * a one-of-a-kind designer piece".

After acceptance of an agreement providing for entry of a consent order, the hearing examiner made his initial decision and order to cease and desist which became on March 20 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Jordan Marsh Company, a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale, in commerce, or the transportation or distribution, in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely or deceptively advertising fur products through the use of any advertisement representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

A. Represents, directly or by implication, that the regular or usual price of any fur product is any amount which is in excess of the price at which respondent has usually and customarily sold such products in the recent regular course of business;

B. Represents, directly or by implication, that any fur product is fashioned for or in any specific year, or is in a special collection, or is a one-of-a-kind designer piece, or words of similar import, when such is not the fact.

2. Making price claims and representations of the type referred to in Paragraph 1 A, above, unless respondent maintains full and adequate records disclosing the facts upon which such claims or representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: March 20, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3248; Filed, Apr. 17, 1959;
8:46 a.m.]

[Docket 6764]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Eis Automotive Corp.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—*Price discrimination under 2(a): § 13.736 Group buying organizations.*¹

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; 15 U.S.C. 13) [Cease and desist order, The Eis Automotive Corporation, Middletown, Conn., Docket 6764, March 21, 1959]

This proceeding was based on a complaint charging a Middletown, Conn., manufacturer of automotive parts, including hydraulic brake parts and cables for automobiles, trucks, and trailers, with discriminating in price to the disadvantage of independent jobbers, by paying a so-called redistributional discount or rebate to members of group buying organizations which were in reality devices for the collection of rebates, allowances, etc., from sellers on all purchases made by the jobber members.

After trial of the issues, the hearing examiner made his initial decision, including findings, conclusions, and order, which became on March 21 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent The Eis Automotive Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in or in connection with the sale for replacement purposes, of automotive parts and supplies in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from: Discriminating, directly or indirectly, in the price of such products and supplies of like grade and quality:

1. By selling to any one purchaser at net prices higher than the net prices charged to any other purchaser who, in fact, competes with the purchaser paying the higher price in the resale and distribution of respondent's products.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: March 20, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-3249; Filed, Apr. 17, 1959;
8:46 a.m.]

¹ New.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerances for Residues of 1-Naphthyl N-Methylcarbamate

A petition was filed with the Food and Drug Administration by Union Carbide Chemicals Company, Division of Union Carbide Corporation, 30 East Forty-second Street, New York, New York, requesting the establishment of tolerances for residues of 1-naphthyl N-methylcarbamate in or on grapes, pears, and sweet corn. The request for a tolerance on sweet corn was later withdrawn.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR, 1957 Supp., 120.7(g); 23 F.R. 6403), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (23 F.R. 6403; 24 F.R. 1982) are amended by adding to the list of raw agricultural commodities for which tolerances have been established in § 120.169 the items grapes and pears. As amended, § 120.169 reads as follows:

§ 120.169 Tolerances for residues of 1-naphthyl N-methylcarbamate.

A tolerance of 10 parts per million is established for residues of 1-naphthyl N-methylcarbamate, including its hydrolysis product 1-naphthol calculated as 1-naphthyl N-methylcarbamate, in or on each of the following raw agricultural commodities: Apples, beans, grapes, peaches, pears.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: April 13, 1959.

[SEAL]

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 59-3266; Filed, Apr. 17, 1959; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Certain N-Acetyl-p-Aminophenol (p-Hydroxy-Acetanilid) Preparations; Exemption From Prescription

There was published in the FEDERAL REGISTER of February 27, 1959 (24 F.R. 1474), notice of a proposal to amend § 130.102(a) for the purpose of exempting N-acetyl-p-aminophenol preparations from prescription-dispensing requirements. No comments having been filed within the 30-day period stipulated in the above-identified notice, the amendments set out below are ordered, effective 30 days from the date of publication in the FEDERAL REGISTER, pursuant to authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 503, 505, 701; 65 Stat. 649, 52 Stat. 1052, 1055, as amended 72 Stat. 948; 21 U.S.C. 353, 355, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR, 1957 Supp., 130.101(b)).

Section 130.102(a)(1)(iv), (vi), and (vii) (21 CFR, 1957 Supp., 130.102; 23 F.R. 8285) are amended to read as set forth below:

§ 130.102 Exemption for certain drugs limited by new-drug applications to prescription sale.

(a) * * *

(1) * * *

(iv) The preparation contains not more than 0.325 gram (5 grains) of N-acetyl-p-aminophenol per dosage unit, or if it is in liquid form not more than 100 milligrams of N-acetyl-p-aminophenol per milliliter.

(vi) The dosages of N-acetyl-p-aminophenol recommended or suggested in the labeling do not exceed: For adults, 0.65 gram (10 grains) per dose or 2.6 grams (40 grains) per 24-hour period; for children 6 to 12 years of age, one-half of the maximum adult dose or dosage; for children 3 to 6 years of age, one-fifth of the maximum adult dose or dosage.

(vii) The labeling bears, in juxtaposition with the dosage recommendations, a clear warning statement against administration of the drug to children under 3 years of age and against use of the drug for more than 10 days, unless such uses are directed by a physician.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies secs. 503,

505, 52 Stat. 1052, 65 Stat. 649; 21 U.S.C. 353, 355)

Dated: April 13, 1959.

[SEAL]

JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 59-3267; Filed, Apr. 17, 1959; 8:49 a.m.]

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

Chlortetracycline Hydrochloride Impregnated Surgical Silk

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500), the regulations for tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (21 CFR Parts 141c, 146c) are amended by adding thereto the following new sections:

§ 141c.247 Chlortetracycline hydrochloride impregnated surgical silk.

(a) *Potency.* Use not less than five sutures. Remove the needles, and place sutures in a glass-stoppered Erlenmeyer flask containing 50 milliliters of 0.1 N hydrochloric acid and allow to stand overnight, with frequent agitation, at room temperature. Remove a suitable aliquot and further dilute in 0.1 M phosphate buffer, pH 4.5, to the reference concentration, and proceed as directed in § 141c.201(a)(8). The potency is satisfactory if it contains not less than 85 percent of the number of milligrams of chlortetracycline hydrochloride per suture that it is represented to contain.

(b) *Sterility.* Using individual sutures, proceed as directed in § 141a.2 of this chapter, except that neither penicillinase nor the control tube is used in the test for bacteria.

(c) *Moisture.* Using 10 sutures, proceed as directed in § 141a.5 of this chapter.

§ 146c.247 Chlortetracycline hydrochloride impregnated surgical silk.

(a) *Standards of identity, strength, quality, and purity.* Chlortetracycline hydrochloride impregnated surgical silk is surgical silk that is impregnated with crystalline chlortetracycline hydrochloride. Its content of chlortetracycline hydrochloride is not less than 1.5 percent of the total weight of the suture. It is sterile. Its moisture content is not more than 4 percent. The chlortetracycline hydrochloride used conforms to the

standards prescribed by § 146c.201(a), except § 146c.201(a) (2), (4), and (5). The surgical silk used conforms to the standards prescribed therefor by the U.S.P. for nonabsorbable surgical sutures.

(b) *Packaging.* The sutures shall be packaged in tight containers as defined by the U.S.P. The immediate containers shall be so sealed that the contents cannot be used without destroying the seal and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each immediate container may contain a suitable sterile surgical needle.

(c) *Labeling.* Each package shall bear on its label or labeling, as herein-after indicated, the following:

(1) On the outside wrapper or container and the immediate container:

(i) The batch mark.

(ii) The number of milligrams of chlortetracycline hydrochloride per suture.

(iii) The length, size, and type of silk contained in the package.

(iv) The statement "Expiration date _____," the blank being filled in with the date that is 24 months after the month during which the batch was certified.

(2) On the outside wrapper or container; the statement "Caution: Federal law prohibits dispensing without prescription."

(3) On the circular or other labeling within or attached to the package, if it is packaged for dispensing, adequate directions and warnings for its use by practitioners licensed by law to administer such drug.

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the chlortetracycline hydrochloride used in making such batch was completed, the potency of each gram of the surgical silk, the date on which the latest assay of the batch was completed, and a statement that the surgical silk used in making the batch conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch: Average potency per suture, moisture, and sterility.

(ii) The chlortetracycline hydrochloride used in making the batch: Potency, toxicity, moisture, pH, and crystallinity.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities here-

inafter indicated, accurately representative samples of the following:

(i) The batch:

(a) For all tests except sterility: 1 package for each 5,000 packages in the batch, but in no case less than 20 packages.

(b) For sterility testing: 10 packages.

Such samples shall be collected by taking single packages at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The chlortetracycline used in making the batch: 10 packages, each containing approximately equal portions of not less than 60 milligrams, packaged in accordance with the requirements of § 146c.201(b).

(iii) In case of an initial request for certification: 1 package consisting of approximately 1.0 gram of the surgical silk used.

(4) The result referred to in subparagraph (2) (i) of this paragraph and the sample referred to in subparagraph (3) (i) of this paragraph are not required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this section shall be:

(1) \$1.50 for each package in the sample submitted in accordance with paragraph (d) (3) (i) (a); \$4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) and (iii) of this section; \$10.00 for all containers submitted in accordance with paragraph (d) (3) (i) (b) of this section.

(2) If the Commissioner considers that investigations other than examination of such packages are necessary to determine whether or not such batch complies with the requirements of § 146.3 of this chapter for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8(d) of this chapter.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the new antibiotic drug covered by this order.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: April 13, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner
of Food and Drugs.

[F.R. Doc. 59-3265; Filed, Apr. 17, 1959; 8:49 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter IV—Saint Lawrence Seaway Development Corporation

PART 401—SEAWAY REGULATIONS AND OPERATING RULES

Preamble. The Act of May 13, 1954, 68 Stat. 92, 33 U.S.C. 981 provides, inter alia, that the Saint Lawrence Seaway Development Corporation is authorized and directed to operate and maintain the Saint Lawrence Seaway in coordination with The St. Lawrence Seaway Authority of Canada, that the Corporation shall make necessary arrangements to assure the coordination of its activities with that Authority, and that the Corporation is authorized and directed to negotiate with that Authority an agreement as to the rules for the measurement of vessels and cargoes and the rates of charges or tolls to be levied for the use of the Saint Lawrence Seaway.

An agreement entered into on March 9, 1959 between the Governments of United States and Canada provides that the establishment and maintenance of a method of billing and the collection of tolls shall be the responsibility of the Authority, which shall account to the Corporation for its share of the total revenue, subject to such collaboration and cooperation on the part of the Corporation as may jointly be determined.

The regulations hereunder consist of the joint Seaway Regulations of the Saint Lawrence Seaway Development Corporation and of The St. Lawrence Seaway Authority of Canada. They are conjoined herein to provide to users full information concerning the relevant facilities of each country. These regulations were approved by the Administrator, Saint Lawrence Seaway Development Corporation on April 1, 1959, and were also approved as of the same date by his Excellency the Governor in Council, by Order in Council P.C. 1959-375 of March 26, 1959.

Subpart A—Seaway Regulations

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401.105-10	Discharge pipes.
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401.120-1	Use of bridges, roads, wharves and other Seaway property.
401.130-1	Toll assessment and collection.
401.140-1	St. Lawrence Seaway Vessel Pre-clearance Form.

AUTHORITY: §§ 401.1 to 401.140-1 issued under 68 Stat. 92-96, 33 U.S.C. 981-990; Agreement between the Governments of United States and of Canada dated March 9, 1959.

Subpart A—Seaway Regulations

§ 401.1 Short title.

The regulations in this part may be cited as the "Seaway Regulations".

§ 401.2 Definitions.

In these Seaway Regulations:

(a) "Authority" means the Saint Lawrence Seaway Development Corporation in respect to the United States portion of the Seaway, or when in other respects applicable, otherwise it means The St. Lawrence Seaway Authority of Canada.

(b) "Navigation season" means the period designated by the Authority for navigation on the Seaway or any portion thereof;

(c) "Passing through" means going through or using a lock;

(d) "Pleasure craft" means a vessel however propelled, the overall length of which does not exceed forty feet, that is used exclusively for pleasure and that does not carry passengers who have paid a fare for passage;

(e) "Seaway" means that portion of the deep waterway under the jurisdiction of the Authority, between the Port of Montreal and Lake Erie, and includes any works in that area, the management and administration of which have been entrusted to the Authority;

(f) "Station" means a radio station operated by the Authority;

(g) "Transit" means to use the Seaway in whole or in part, upbound or downbound; and

(h) "Vessel" includes every type of craft used as a means of transportation on water.

§ 401.3 Transit of the Seaway.

(a) Except as provided in these Seaway Regulations, no vessel shall transit the Seaway.

(b) Subject to these regulations, every vessel that does not exceed 715 feet in overall length and 72 feet in beam may transit the Seaway during the navigation season.

(c) Subject to these regulations, vessels exceeding 715 feet in overall length and 72 feet in beam but not exceeding 730 feet in overall length and 75 feet in beam may, with special instruction from the Authority, transit the Seaway during the navigation season.

(d) No pleasure craft of less than 20 feet in overall length or two tons in dead weight shall transit the Seaway.¹

§ 401.4 Pre-clearance of vessels.

(a) Every vessel shall be pre-cleared by its representative² with the Authority before transiting the Seaway.

(b) A vessel shall be deemed to be pre-cleared until its representative is changed or there is a change with respect to the vessel that would alter materially the information given at the time of the pre-clearance.

(c) The representative of a vessel shall at the time of application for pre-clearance, guarantee in such manner as may be required by the Authority, payment of all monies that may become due by the vessel in accordance with law.

§ 401.5 Condition of vessels.

(a) Every vessel transiting the Seaway shall be properly trimmed and in a condition determined by the Authority to be safe and satisfactory to it.

(b) Every vessel transiting the Seaway shall be equipped with such apparatus, equipment or machinery as the Authority deems necessary for the safe transiting of the Seaway.

(c) The Authority may deny access to the Seaway to a vessel when, in the opinion of the officers of the Authority

(1) The vessel, its cargo, equipment or machinery is in such a condition as to prevent the safe or expeditious transiting of the Seaway by that vessel, or

(2) The vessel is manned with a crew that is incompetent or insufficient in numbers.

§ 401.6 Navigation on the Seaway.

(a) Subject to these Seaway Regulations, the Canada Shipping Act and the regulations made thereunder as well as the related marine, navigation, and shipping Laws and Regulations of United States (46 U.S.C. 1 et seq., 46 CFR Part 1 et seq.), shall apply mutatis mutandis, to every vessel transiting the Seaway.

(b) No vessel shall transit the Seaway at a speed in excess of that prescribed by the Authority for that portion of the Seaway in which the vessel is travelling.

(c) The Authority assumes no liability in providing aids to or things to assist navigation.

§ 401.7 Notice of arrival.

(a) All vessels shall upon reaching a calling-in point on the Seaway, give

¹ See, however, § 401.104-7 of Subpart B.

² Representative means the person representing a vessel in using the Seaway and responsible for the vessel and the payment of tolls such as the owner, charterer, agent, or person responsible for the vessel in fact.

notice of arrival in the manner required by the Authority.

(b) Notice of arrival shall be deemed to have been given only when it is acknowledged by a station.

(c) Every vessel within the Seaway shall be on listening-in watch.

(d) The master of a vessel shall comply with all instructions given by a station.

(e) The order of vessels transiting the Seaway shall be as determined by the Authority.

§ 401.8 Passing through.

(a) The crew of a vessel shall assist in the passing through of that vessel in such manner as may be required by the Authority.

(b) Except as authorized by the Authority, no person shall load or unload goods on the property of the Authority or go aboard or leave any vessel on the Seaway.

§ 401.9 Dangerous cargo.

(a) The representative of a vessel carrying cargo to which the Dangerous Goods Shipping Regulations³ apply shall give such guarantee as the Authority may require, that its cargo is loaded, stowed and handled in accordance with the said regulations.

(b) Every vessel carrying dangerous cargo shall transit the Seaway in the manner required by the Authority.

(c) The master of a vessel carrying dangerous cargo shall notify the station of this fact when giving notice of arrival.

§ 401.10 Documentary evidence.

All documentary evidence including inspection Certificates, vessel manifests, cargo manifests, crew lists, and bills of lading shall be made available to the Authority.

§ 401.11 Accidents.

(a) When an accident occurs involving damages to a vessel or cargo during a listening-in watch and shore assistance is desired, the master of that vessel shall report the accident immediately to the nearest station and shall, if requested by an officer of the Authority, file a written report on the accident.

(b) The representative of a vessel involved in an accident shall, when requested by an officer of the Authority, submit such written reports or give such assistance for the purpose of investigation as may be required by that officer.

(c) Where an accident results

(1) In damage to property of the Authority,

(2) In damage to goods or cargo stored on property of the Authority, or

(3) In injury to employees of the Authority,

the vessel causing such damage or injuries shall be detained in accordance with orders of the Authority, and shall

³ Unless otherwise provided, observance of the Dangerous Goods Shipping Regulations of Canada would constitute compliance with the regulations issued pursuant to the Dangerous Cargo Act of United States in the transit of the United States portion of the Seaway (46 U.S.C. 170, 46 CFR 146.01-1 et seq.).

not be released until security satisfactory to the Authority has been provided.

(d) (1) The Authority may take such action as it deems necessary to remove any vessel, cargo or thing that obstructs any part of the Seaway and charge the costs of removal to the owner thereof.

(2) The Authority may sell any vessel, cargo or thing removed from the Seaway pursuant to paragraph (d) (1) to recover the costs of the removal thereof and where the amount realized from that sale is not sufficient to meet such costs, the owner shall pay the difference to the Authority.

§ 401.12 Wintering and laying-up.

A vessel may winter or lay-up within the Seaway only where the written permission of the Authority has been obtained and subject to the conditions and charges that may be imposed by the Authority.

§ 401.13 Access to Seaway.

Subject to these Seaway Regulations and unless authorized by an officer of the Authority, no person shall wilfully trespass any property of the Authority.

§ 401.14 General.

(a) For the purpose of enforcing these Seaway Regulations, an officer of the Authority may board any vessel and examine the vessel, or its cargo or inspect its crew.

(b) Nothing in these regulations shall be construed as to derogate from the responsibility of a master for his vessel.

(c) A copy of these Seaway Regulations shall be kept on board every vessel transiting the Seaway.

(d) By the sole fact of using the Seaway, masters and owners of vessels undertake to abide by these regulations and to pay all tolls or monies that may become due on account of a transit.

§ 401.15 Offenses and penalties.¹

(a) A person who violates a regulation is guilty of an offense and is liable on summary conviction to a fine not exceeding one thousand dollars.

(b) (1) Every officer of the Authority may detain a vessel in respect of which the tolls or charges levied against it, its goods or cargo have not been paid or in respect of which a violation of the Act or these regulations has taken place.

(2) Every officer of the Authority who detains a vessel pursuant to paragraph (b) (1) may release that vessel if the representative or master thereof deposits with the Authority an amount determined by the detaining officer to be the amount due in respect thereof for tolls

or the maximum fine that may be imposed in respect of the violation of the Act or regulation for which it has been detained.

(3) Where an offense has been committed under these Seaway Regulations and the Authority has directed what sum should be deposited, it may return the sum of money so deposited or any part thereof, or may retain the sum directed to be paid if the master or the representative agrees to forfeiture.

(4) Although the master or the representative may have agreed to forfeiture, he may bring an action for the recovery of the sum of money involved on the ground that there has been no violation of these regulations.

(c) (1) Where a vessel has been detained pursuant to paragraph (b) and a deposit has not been made or a bail bond has not been supplied within forty-eight hours after the time of detention, the Authority may direct that the vessel or its cargo or any part thereof be seized.

(2) The Authority may, after giving such notice as it deems reasonable sell the vessel or cargo seized pursuant to paragraph (c) (1) and such sale shall convey to the purchaser thereof title to the vessel or cargo free of any mortgage or other claim thereon that may exist as the time of the sale.

(3) Any amount remaining from the proceeds of a sale held pursuant to paragraph (c) (2) shall after deduction of the sum that may be due for tolls or charges or otherwise, together with the costs of detention, seizure and sale, be paid to the owner of the vessel or cargo or mortgagee thereof, as the case may be.

Subpart B—Operating Rules

§ 401.101-1 General conditions.

In accordance with the Seaway Regulations, the Authority issues rules which will set out matters and procedure prescribed by the regulations, and any other matter which may be required to assure the proper administration and management of the Seaway, including the control of vessels.

§ 401.101-2.

Each rule deals with a particular subject usually grouped in sequence according to the regulations. The numbers allocated to the rules are consecutive and will remain constant in relation to the subject. Changes will be made to the rules by issuing revisions to replace those amended.

§ 401.101-3.

Rules will be distributed to and through the representatives of vessels.

§ 401.101-4.

In addition to the rules, the Authority will issue Seaway Notices to Mariners. These notices will contain information related to navigation. These notices may be issued by designated officers of the Authority.

§ 401.101-5.

A copy of all rules shall be kept on board each vessel transiting the Seaway.

§ 401.101-6. Definitions.

In these rules: (a) "Authority" means the Saint Lawrence Seaway Development Corporation in respect to the United States portion of the Seaway, or when in other respects applicable, otherwise it means The St. Lawrence Seaway Authority of Canada.

(b) "Canal" means any canal under the jurisdiction of the Seaway Authority and includes:

South Shore Canal—Montreal Harbour to Lake St. Louis.
Beauharnois Canal—Lake St. Louis to Lake St. Francis.
Wiley-Dondero Canal—From Grasse River to Richards Point.
Iroquois Canal—From Lake St. Lawrence to river above Iroquois Control Dam.
Welland Canal—Lake Ontario to Lake Erie.
Sault Ste. Marie—St. Mary Rapids at Sault Ste. Marie.
Lachine Canal—Montreal to Lachine.
Cornwall Canal—Cornwall to Barnhart Power House.

(c) "Despatcher" means the person who is in charge of a Seaway Station and who gives all relevant transit instructions and orders; and

(d) "Director of Operation and Maintenance," "Superintending Engineer," and "Canal Superintendent" means, in each case, the person holding the office designated as such by the Authority or any person duly authorized to act for such an officer.

§ 401.104-1 Pre-clearance of vessels.

In order to avoid stopping or delaying vessels at the various locks for documentation and toll collection, certain formalities must be performed before a vessel may use the Seaway.

§ 401.104-2 Formalities before using the Seaway.

A vessel must be pre-cleared with the Authority by the representative. The representative will complete form SLS 429, which is shown in § 401.140-1, and which may be obtained at Seaway Headquarters in Cornwall. The representative will submit the completed form to The St. Lawrence Seaway Authority, Cornwall, Ontario.

§ 401.104-3.

Pre-clearance will provide the Authority with a complete physical description of the vessel. The first step in pre-clearance includes registration of the vessel with the Authority and the giving of the required security undertaking by the representative. Any change in the information or details provided in the pre-clearance form requires that a new form be completed and submitted to the Authority.

§ 401.104-4 Representative.

Every transiting vessel must have a representative who assumes responsibility

¹ Where the words "Director of Operations and Maintenance", or "Superintending Engineer", as well as "Canal Superintendent" appear above and hereinafter they shall mean "Director, Office of Marine and Engineering Operations, and Chief, Operations Division in the United States portion of the Seaway."

¹ The agreement between Canada and the United States provides that the establishment and maintenance of a method of billing and the collection of tolls shall be the responsibility of The St. Lawrence Seaway Authority of Canada, which shall account to the Saint Lawrence Seaway Development Corporation for its share of the total revenue, subject to such collaboration and cooperation on the part of the Corporation as may be jointly determined; and that the Corporation shall pay to the Authority a rateable share of the cost of billing and collecting of the tolls.

ity for the vessel, to the Authority; the actual navigation and control of the vessel remain the responsibility of the master.

§ 401.104-5.

The representative must declare on the pre-clearance form that the vessel is insured. He must also provide evidence on the pre-clearance form to show that the payment of tolls and other monies for the vessel is guaranteed. The security required with respect to the payment of tolls is a cash deposit with the Authority or with a chartered bank in Canada, or with a designated bank in the United States of America, in an amount equal to \$1.00 per ton for every gross registered ton of the vessel. Where the cash deposit is made with a bank, notice thereof may be given by the bank at the representative's instance, directly to the Authority. A letter or guarantee of payment in an amount not less than the amount of the cash deposit, given by a bank, and, if required, validated by the bank designated for the purpose by the Authority, may be accepted in lieu of the cash deposit. In lieu of a cash deposit or bank guarantee, an indemnity bond from a recognized Bonding or Insurance Company, in an amount not exceeding five times the amount of the cash deposit specified above, may also be accepted. Such an indemnity bond must be maintained and be in force for each and every time that a vessel transits during a navigation season. Where a representative is acting on behalf of a number of vessels owned or controlled by one person or company, the type of bond or security required should be determined after consultation with the Authority so that the security might be furnished pursuant to the requirements of the Authority.

§ 401.104-6.

Whenever there is a change of representative, a new vessel pre-clearance form should be filed with the Authority, otherwise the vessel will transit under the former representative's undertakings.

§ 401.104-7 Special conditions for pleasure craft.

Except in the Lachine and Cornwall Canals, and the Wiley-Dondero Canal, pleasure craft of a dead weight of less than two tons and less than twenty feet in overall length will not be permitted to pass through the Seaway.

§ 401.104-8.

Arrangements may be made for the payment of tolls when the pleasure craft is being pre-cleared.

§ 401.104-9 Acknowledgement of pre-clearance.

The Pre-Clearance Form SLS 429 is to be completed in one copy that will be retained by the Authority. If the representative wishes to have his own record of pre-clearance, he may make a copy for his use. Pre-clearance is granted by the Authority in a form letter showing a pre-clearance number to which refer-

ence shall be made at all times when corresponding or making payments.

§ 401.105-1 Condition of vessels for transit.

Radio-telephone equipment. It is recommended that vessels be equipped with V.H.F. (very high frequency) in addition to the required M.F. (medium frequency) radio-telephone equipment. The radio transmitter should have sufficient power output to enable the vessel to contact the Authority radio stations from a distance of 25 miles. The M.F. radio-telephone should be fitted to communicate on 2182 Kcs and 2003 Kcs. The V.H.F. should be fitted to communicate on 156.6, 156.7 and 156.8 Mcs.

§ 401.105-2 Mooring lines and winches.

Vessels of two hundred registered gross tons or less shall be provided with at least two good and sufficient lines or hawsers, one at the bow and one at the quarter.

§ 401.105-3.

Vessels of more than two hundred registered gross tons shall be provided with at least four good and sufficient lines or hawsers. These lines shall be positioned with two leading aft and two leading ahead, and so arranged that four lines may be used on either side of the vessel. On self-propelled vessels the lines shall run from power driven winches and not from capstans or nigger heads except that during the navigation season of 1959 the windlass forward and the capstan aft may be used to handle the two lines leading ahead, but the two lines leading aft must still be led from the main drums of separate winches and not from capstans or nigger heads. Each line shall be provided with a handhold loop spliced thereto at the end of the eye that is thrown over the snubbing post. Each line must be attended by one of the vessel's crew during the whole period that the vessel is in any lock.

§ 401.105-4.

Cargo winches of vessels of more than two hundred registered gross tons shall not be used for the handling of mooring lines unless

(a) Each mooring line passes through no more than two fairleads between the winch or capstan and the fairlead in the vessel's side, and

(b) Such fairleads are fixed in place and provided with free sheaves so that the mooring line may be led to either side of the vessel as required.

§ 401.105-5.

During the navigation season of 1959 four closed chocks on each side of the vessel will be accepted for the handling of mooring lines but satisfactory fairleads, equivalent to the Port Colborne fairleads, are recommended.

§ 401.105-6.

Vessels of more than two hundred registered gross tons that are not equipped with a mooring line compressor located at or near the bow of the vessel, will require permission of the Canal Superintendent prior to entering the Lachine or Cornwall Canals.

§ 401.105-7 Fenders.

All fenders on vessels shall either be made of such materials as will float or shall be securely fastened to the vessel by means of a steel cable or by means of two manila ropes. Automobile or truck tires are not to be used as fenders

§ 401.105-8.

Vessels carrying dangerous cargo must be equipped with a sufficient number of fenders to prevent any metallic portion of the vessel from touching the side of the dock or lock wall.

§ 401.105-9.

Fenders or other devices will also be required where any structural part of a vessel protrudes to such an extent that it may damage Seaway property.

§ 401.105-10 Discharge pipes.

No pipes shall discharge over the lock coping.

§ 401.105-11 Draught markings.

Vessels drawing five feet or over shall be correctly and distinctly marked at the bow and stern to show exact draught fore and aft.

§ 401.105-12.

The master of any vessel shall, if required, produce satisfactory evidence that the draught markings are correct.

§ 401.105-13.

Vessels shall not enter any lock or reach of the Lachine, Cornwall or Sault Ste. Marie Canals unless the depth of water on the controlling point for draught exceeds by at least three inches, or such other clearance as may be determined by the Authority, the maximum draught of the vessel at the time.

§ 401.105-14.

Available depths will be disclosed from time to time in Seaway Notices to Mariners.

§ 401.105-15 Masts.

Vessels whose masts extend more than one hundred and seventeen feet above water level will not be permitted to transit the Seaway.

§ 401.105-16.

Vessels whose masts extend ninety-four feet or more above water level will not be permitted to transit between Locks 2 and 3 of the Lachine Canal.

§ 401.105-17.

Vessels whose masts extend more than one hundred and ten feet above water level must not transit the Seaway, and vessels whose masts extend more than ninety feet must not transit the Lachine Canal, until the master has furnished the officer in charge with precise information concerning the height of such vessel's masts with respect to the water level.

§ 401.105-18 Recommended equipment.

While vessels are not required to carry stern anchors and "visible and audible wrong-way propeller direction alarm systems", this equipment is strongly rec-

ommended for vessels exceeding two hundred and sixty feet in overall length transiting the Seaway.

§ 401.105-19.

Landing booms or other adequate provisions for landing men from vessels are also recommended.

§ 401.105-20.

Satisfactory fairleads, equivalent to the Port Colborne fairleads, are strongly recommended.

§ 401.105-21.

Septic tanks are also recommended where vessels are not already equipped with containers for their ordures.

§ 401.106-1 Seaway navigation instructions.

Speed. Sections 401.106-1 to 401.106-19 of Subpart B details the specific navigation instructions which must be followed by masters of vessels transiting the Seaway. Every vessel transiting a canal shall proceed at a reasonable speed, so as not to cause undue delay to vessels navigating in the same direction.

§ 401.106-2.

Subject to such other speed as may be provided for in Seaway Notices to Mariners, the maximum speed for vessels moving in any Seaway Canal shall be six miles per hour over the bottom for vessels exceeding 260 feet in length and eight miles per hour for vessels under 260 feet long.

§ 401.106-3 Passing and meeting.

The passing and meeting of vessels in a canal shall be governed by the Rules of the Road for the Great Lakes 33 U.S.C. 241 et seq., except when two vessels, either one of which exceeds one hundred feet in length are approaching a bend in the Lachine Canal from opposite directions, the downbound vessel shall have the right of way and the upbound vessel shall check its speed so as to avoid meeting in the bend.

§ 401.106-4.

Vessels shall not attempt to overtake other vessels in any canal, nor while within two thousand feet of a canal entrance structure, or after the order of passing through has been established by the dispatcher.

§ 401.106-5.

Vessels shall not attempt to overtake other vessels between the western end of the Vidal Shoal Cut and the upper entrance to the Sault Ste. Marie Lock.

§ 401.106-6.

A vessel passing a moored vessel or equipment working in a canal shall proceed at dead slow speed.

§ 401.106-7 Turning basins.

Vessels shall not be turned in any canal except at the following turning basins and then only when authorized to do so by the dispatcher:

Laprairie Basin, Montreal

- (a) Turning Basin No. 1—for any vessel.
- (b) Turning Basin No. 2—for any vessel.

Welland Canal

(a) Opposite the St. Catharines Wharf—for vessels not exceeding three hundred and fifty feet in overall length.

(b) Thorold—for vessels up to five hundred and fifty feet in overall length.

(c) South of Port Robinson for vessels up to six hundred feet in overall length.

(d) Opposite Welland Center Wharf—for vessels up to two hundred and sixty feet in overall length.

(e) Opposite Welland South Wharf—for vessels up to two hundred and sixty feet in overall length.

(f) North of Lock 8 (Robin Hood Mill)—for vessels up to five hundred and fifty feet in overall length.

§ 401.106-8 Dropping anchor.

Unless an emergency exists anchors shall not be dropped in any canal nor between upbound and downbound calling in points, except in designated anchorage grounds as follows:

Windmill Point.....	Lake St. Louis.
McKies Point.....	Lake St. Francis.
Dickerson Island.....	Lake St. Francis.
Wilson Hill Island.....	Lake St. Lawrence.
Morrisburg.....	Lake St. Lawrence.
Prescott.....	St. Lawrence River.
Lake Ontario—off Port Weller.....	Lake Ontario.
Lake Erie—off Port Colborne.....	Lake Erie.

§ 401.106-9.

The action of dropping an anchor shall be reported immediately to the dispatcher and the anchor shall not be weighed for Seaway transit without permission from the dispatcher.

§ 401.106-10 Procedures at locks and bridges.

A whistle or horn signal shall be sounded by a vessel when it comes abreast of the bridge whistle signs marked W, unless the bridgmaster recognizes the vessel's approach by flashing the red signal light. On the South Shore and Beauharnois Canals these whistle signs have been placed 3,600 feet upstream and downstream from the movable bridges, except those at locks. On the Welland Canal similar bridge whistle signs have been placed at distances varying from 1,600 to 3,850 feet from the bridges.

§ 401.106-11.

A vessel shall not proceed to pass any bridge until such bridge is in the fully open position and the light thereon shows green, and in the case of pairs of the two railway bridges at Caughnawaga and bridges Nos. 17 and 18 and 20 and 21 on the Welland Canal, until both bridges of the pair are in the fully open position and both are showing the green light.

§ 401.106-12.

When approaching a lock, guard gate or movable bridge the stem of the vessel shall not pass the sign marked "Limit of Approach" while the signal light shows red or when no light is shown. At a lock, a flashing red light indicates that the lock is being made ready to receive a vessel, and at a guard gate or bridge it indicates that power is available to operate the structure for a vessel passage.

§ 401.106-13.

Except in the case of a tandem lockage, all vessels approaching a lock, while another vessel is in or about to enter the same, shall be moored until directed by the dispatcher or the officer in charge to proceed.

§ 401.106-14.

When several vessels are waiting to enter a lock they shall moor in single tier and the bow of the leading vessel shall not pass the sign marked "Limit of Approach," unless otherwise directed by the dispatcher or the officer in charge. Following vessels shall keep well closed up to the vessel ahead.

§ 401.106-15.

At the lower entrance to Lock No. 1 on the Lachine Canal, vessels shall keep clear of the entrance while the signal light shows red or when no light is shown.

§ 401.106-16.

The master of any vessel within a lock or approaching or leaving any lock, guard gate or bridge shall ascertain for himself whether or not such lock, guard gate or bridge is prepared to allow his vessel to enter or pass and he shall control his vessel so as to avoid collision with Seaway works or other vessel and no vessel shall attempt to enter or leave a lock until the gates, fender boom and bridge, if any, are fully opened.

§ 401.106-17 Searchlights.

Vessels shall not use searchlights in such manner that the rays of the searchlight will interfere with the operation of a Seaway structure.

§ 401.106-18 Smoke.

Vessels within canal waters shall take the necessary precautions to avoid the emission of sparks or excessive smoke. Vessels shall not blow boiler tubes in any canal.

§ 401.106-19 Refuse.

No person shall deposit oil, oil sludge or other flammable or dangerous substance, or garbage, ashes, paper, ordure, litter or other materials in canal waters or on canal property, nor deposit any such substance or material so that pollution of canal waters could result.

§ 401.107-1 Notice of arrival and radio communication.

Radio-telephone frequencies. The Seaway radio-telephone stations are equipped to operate on the following frequencies:

2182 Kcs.	Safety and Calling.
2003 Kcs.	Working.
156.8 Mcs.	Safety and Calling.
156.7 Mcs.	Working (Canadian stations only).
156.6 Mcs.	Working (Eisenhower station only).

§ 401.107-2 Radio-telephone stations.

The Seaway radio-telephone stations are located as follows:

- (a) Upper Beauharnois Lock—Beauharnois Canal. VAO.
- (b) Eisenhower Lock. KEF.
- (c) Iroquois Lock. CZ6K.

(d) Guard Gate—Welland Canal. VBX.

(e) Sault Ste. Marie Canal (Canadian). VDX.

§ 401.107-3.

With the exception of the Sault Ste. Marie Canal (Canadian) all vessels intending to enter or transit the Seaway in whole or in part must report to the nearest vessel despatcher when opposite the calling in point of the respective control area, giving the following information:

- Name of vessel.
- Pre-clearance number.
- Position of vessel.
- Draught (relative sailing draught).
- Destination:
 - If canal port, state place and dock, or
 - If through passage, state place of destination.
- Nature of cargo if dangerous.
- When reporting in, the preferred calling frequency is 156.8 Mcs.

§ 401.107-4 Calling in points.

The Seaway calling in points are located as follows:

Upbound	Despatch area	Call sign
No. 1—Town of Varennes—approximately 12 miles.		VAO
No. 2—North end of the west Seaway dyke—one-quarter mile downstream from the Jacques Cartier Bridge (lockage turn established here).	No. 1....	VAO
No. 3—Windmill Point—Buoy No. 38A—Lake St. Louis (lockage turn established here).	No. 1....	VAO
No. 7—Hamilton Island Light No. 102F—Lake St. Francis.	No. 2....	KEF
No. 8—Raquette River Range—Buoy No. 139F—Lake St. Francis (lockage turn established here).	No. 2....	KEF
No. 11—MacDonald Point—Buoy No. 78—Lake St. Lawrence.	No. 3....	CZ6K
No. 12—Robertson's Point—Buoy No. 98—Lake St. Lawrence (lockage turn established here).	No. 3....	CZ6K
No. 15—Three miles off the entrance piers—Port Weller—Lake Ontario (lockage turn established here).	No. 4....	VBX
Downbound		
No. 16—Three Mile Fairway Buoy—off Port Colborne Harbour—Lake Erie (lockage turn established here).	No. 4....	VBX
No. 14—Maitland—Fairway Buoy—St. Lawrence River.	No. 3....	CZ6K
No. 13—Sparrowhawk Point—Light No. 115—St. Lawrence River (lockage turn established here).	No. 3....	CZ6K
No. 10—Bradford Island—Light No. 71—Lake St. Lawrence.	No. 2....	KEF
No. 9—Richards Point—Light No. 55—Lake St. Lawrence (lockage turn established here).	No. 2....	KEF
No. 6—Point Mouillee—Pier Light No. 63F—Lake St. Francis.	No. 1....	VAO
No. 5—Entrance to Beauharnois Canal—Buoy No. 8B—Lake St. Francis (lockage turn established here).	No. 1....	VAO
No. 4—Lower Beauharnois Lock—when leaving.	No. 1....	VAO
No. 2—North end of the west Seaway dyke—one-quarter mile downstream from the Jacques Cartier Bridge (downbound vessels leave the Seaway control and go to Montreal Harbour control).	No. 1....	VAO

§ 401.107-5.

All vessels intending to enter the Canadian Sault Ste. Marie Canal will be

directed to the canal by arrangements with the lockmaster at the United States St. Mary's Falls Canal—normally by means of visual signals. The radio marine transmitter-receiver set at the Canadian Sault Canal is primarily intended for communications from the lockmaster to the vessel and is not continuously attended for receiving communications from the vessel.

§ 401.107-6.

Any vessel whose cargo consists of dangerous goods as described in §§ 401.109-1 to 401.109-6 of Subpart B, shall advise the despatcher as to the

nature of such cargo before entering the despatch area.

§ 401.107-7.

Unless otherwise permitted by the despatcher, a listening or standby watch shall be maintained by every vessel while within a Seaway despatch area.

§ 401.108-1 Passing through.

Locking. Each vessel shall advance to the lock in the order in which it arrives, unless otherwise instructed by the despatcher. If so instructed, a vessel small enough to pass through with a preceding vessel shall advance for that purpose ahead of its regular turn.

MOORING TABLE

Showing the side on which the vessel shall normally moor at the tie-up walls and in the locks, unless otherwise directed by the despatcher.

S = Starboard Upb = Upbound
P = Port Dnb = Downbound

Montreal to Iroquois

Locks	St. Lambert	Cote St. Catherine	Beauharnois			Snell	Eisenhower	Iroquois
			Lower	Pool	Upper			
Upb.....	P	P	S		S	S	S	P
Dnb.....	S	S	P		P	P	P	S
Tie-up Walls								
Upb.....	S	S	P	P		S	S	S
Dnb.....	P	P		S	P	P	P	P

Welland Canal

Locks	1	2	3	4	5	6	7	8
Upb.....	S	P	P	P	P	P	P	S
Dnb.....	P	S	S	P	P	P	P	P
Tie-up Walls								
Upb.....	S	S	S	S			S	S
Dnb.....	P	P	P				S	P

§ 401.108-2 Preparing mooring lines for passing through.

When preparing mooring lines for passing through a lock, the lines shall be drawn off the winch drums outwards through the fairleads and will be laid out on the vessel's deck in sufficient length to reach the mooring posts.

§ 401.108-3.

For upbound vessels heaving lines will be cast down from the mooring wall as soon as the vessel passes the open lock gates and shall by means of a clove hitch. The mooring lines will be hauled up to the mooring wall and placed on the mooring posts as directed by the lockmaster.

§ 401.108-4.

Downbound vessels shall use their own heaving lines and attach them to the mooring lines prior to entry into the lock ready to be passed to the linesman as soon as the vessel passes the open gates.

§ 401.108-5.

In case of emergency, when the vessel's speed has to be checked immediately, all mooring lines shall, upon the order of either the lockmaster or the master of the vessel, be put out as soon as possible and each line shall be placed on the nearest mooring post.

§ 401.108-6.

Mooring lines shall not be cast over the side of the vessel in a manner that will endanger the lock crew.

§ 401.108-7.

The winches from which the mooring lines run shall not be operated until a signal is received from the lockmaster or linesman that the line has been placed on a mooring post.

§ 401.108-8.

When a vessel is proceeding into a lock her engines shall be stopped before her stem reaches a point fifty feet from the sign marked "Stop" on the lock wall near the closed gates and she shall be moved into her mooring position by means of her lines and winches only, without working her engines except to check her speed or stop.

§ 401.108-9.

Vessels shall not proceed into a lock so far that her stem passes the "Stop" sign near the closed gates nor be moored in such a position that her stern extends beyond the "Stop" sign near the open gates.

§ 401.108-10.

A vessel whose deck level at the bow extends less than twelve feet above water surface when entering the Iroquois Lock

or Lock 8 of the Welland Canal, shall stop before her bow has reached a point one hundred feet from the sign marked "Stop" on the lock wall. Beyond this point the vessel shall maneuver into mooring position by means of her lines and winches only, but her stem shall not pass the "Stop" sign near the closed gates.

§ 401.108-11.

The engines of any vessel on the Lachine, Cornwall or Sault Ste. Marie Canals shall be stopped while the propeller wheel is passing over the miter sills.

§ 401.108-12.

The engines of a vessel entering a lock on the Lachine, Cornwall or Sault Ste. Marie Canals shall be stopped when her bow reaches the middle of the lock between the upper and lower gates and she shall then be moved into mooring position by her lines alone.

§ 401.108-13.

When preparing to leave the lock, none of the vessel's mooring lines shall be cast off until the exit gates and fenders of the lock and the bridge, if any, are in a fully open position. A signal that the vessel may proceed will be given by the lockmaster to the master of the vessel.

§ 401.108-14 Tandem lockages.

When two or more vessels are being locked together, the vessels astern of the leading vessel shall come to a full stop a sufficient distance from the preceding vessel to avoid collision.

§ 401.108-15 Vessels in tow.

A vessel that is not self-propelled shall not be underway in any canal unless it is securely tied to its towing vessel.

§ 401.108-16.

A vessel whose overall length exceeds two hundred and sixty feet shall be towed by two adequate tugs, one forward and one aft.

§ 401.108-17.

Vessels shall not be towed in any canal by another vessel fastened alongside or astern of the towed vessel, unless

(a) The wheelsman of the towing vessel has an unobstructed view of the full outline of the deck at the bow of the towed vessel and of the water surface four hundred feet in advance of its bow, or

(b) When underway there is at all times on the deck of the vessel being towed, a deck officer to signal directions of the wheelsman.

§ 401.108-18.

When more than one vessel is being towed by one tug, the tug shall have adequate power and shall be securely tied alongside or astern to insure that the tug will fully control the towed vessels.

§ 401.108-19.

No vessel shall be fastened alongside of its towing vessel so that the total beam

exceeds forty feet in the Cornwall Canal, or fifty-five feet in the Sault Ste. Marie Canal, or seventy-two feet on any other Seaway Canal.

§ 401.108-20.

No vessel shall tow more than one vessel in any canal except with the express approval of the Superintending Engineer. When required by the Superintending Engineer, two adequate tugs or other vessels shall be provided for towing any vessel.

§ 401.108-21.

The master of a vessel or tug arriving at the entrance of any canal with two or more vessels in tow for passage through the canal shall arrange with the despatcher for the mooring of such vessels of the tow which cannot proceed immediately through the canal. Each vessel moored shall be in charge of a competent person appointed by the master who shall obey the orders of the Seaway officer in any matter relating to the position of the vessel and the accommodation or fastenings thereof.

§ 401.108-22.

When vessels that are towed or propelled by an accompanying tug and are not equipped with deck winches, one of the crew shall be detailed to attend to each of the mooring lines at the vessel's cleats or mooring bitts while the vessel is within a lock. The crew members so assigned shall take up the slack as the vessel rises or pay out lines as the vessel lowers, in order to control the vessel properly while the lock is being filled or emptied.

§ 401.108-23 Mooring and fastening.

No vessel shall be fastened or moored so as to obstruct navigation.

§ 401.108-24.

Crew members may disembark if so directed by the master for the purpose of mooring or handling the vessel's lines or for other essential duties.

§ 401.108-25.

Vessels that have moored at a wharf or tie-up wall on any canal shall not proceed further until permitted to do so by the despatcher or the lockmaster.

§ 401.108-26.

Vessels shall not tie to a canal bank except in cases of emergency, or if so instructed by the despatcher, and if a master has to tie to a bank or is otherwise held on a bank, he shall advise the despatcher without delay and shall conform with the instructions of the despatcher.

§ 401.108-27 Restricted transit.

The transit of pleasure craft shall be scheduled so as to avoid interference with other shipping and may be delayed until the officer in charge considers that the craft may pass through safely.

401.108-28 Failure to comply with orders.

In the event of noncompliance with an order of a despatcher, the Authority may

remove and relocate the vessel with respect to which the order was not carried out at the cost of the vessel's owner.

§ 401.109-1 Dangerous cargo.

Subject to § 401.109-2 of Subpart B in the case of a vessel carrying dangerous goods defined as requiring a permit in the Dangerous Goods Shipping Regulations made under the Canada Shipping Act or carrying fuel oil, crude oil, gasoline, or other flammable goods, and in the case of a vessel engaged in carrying such goods whether it is loaded, partly loaded or empty, the master shall advise the despatcher of the nature of the cargo when the vessel arrives at the calling-in point and shall comply with all instructions issued by the despatcher.

§ 401.109-2.

When the dangerous cargo consists in whole or in part of explosives as defined in the said Dangerous Goods Shipping Regulations, the vessel carrying it shall not enter or transit any canal except with the written permission of the Director of Operation and Maintenance and subject to the conditions and restrictions specified in the permit. A copy of the permit shall be kept on board the vessel and the master shall advise the despatcher of the exact nature of the cargo when the vessel arrives at the calling-in point.

§ 401.109-3.

Vessels engaged in carrying explosives or dangerous goods shall fly a red flag by day and at night shall show a red light. The red flag and the red light shall be displayed at the masthead or at another conspicuous position and shall be visible all around the horizon for a distance of at least one mile.

§ 401.109-4.

As specified in § 401.105-9 of Subpart B, all vessels carrying dangerous goods shall be equipped with a sufficient number of fenders to prevent any metallic portion of the vessel from touching the side of the dock or lock wall.

§ 401.109-5.

No dangerous goods shall be moved by vessel within the Seaway unless they are packed, marked, labeled, described, certified, stowed and otherwise in accordance with the said Dangerous Goods Shipping Regulations, nor moved by vessel from a place outside Canada into the Seaway unless they are packed, marked, labeled, described, certified, stowed and otherwise in conformity with all relevant regulations of the country in which it was loaded in the vessel and in no case in a manner less effective than that prescribed in the said Dangerous Cargo Shipping Regulations.

§ 401.109-6.

The storage, transportation and distribution of explosives upon Seaway lands and property shall be subject to the Explosives Act of Canada, and to the regulations made under the Act, as well as to all applicable provincial and municipal legislation.

§ 401.110-1 Documentary evidence.

The Authority may, at any time, request that documentary evidence relating to the vessel, its crew or its cargo be made available by the master, the representative or the owner.

§ 401.110-2.

If so required by the Authority, certified copies of any documentary evidence shall also be furnished. The Authority may also cause any vessel to stop in the manner and where indicated, for the purpose of examining or securing any documentary evidence that is required to be kept on board a vessel.

§ 401.110-3.

With respect to the vessel or its crew, the master, the owner or the representative may be called upon to produce any of the vessel's manifests or inspection certificates, including safety certificates as well as crew lists or evidence of qualifications.

§ 401.110-4.

The master, the representative or the owner may be requested to furnish the passenger manifest, cargo manifest, bills of lading, weight-scale slips or any other documentary evidence relating to the passengers or the cargo of a transiting vessel.

§ 401.110-5.

Where dangerous cargo has been placed aboard within a port or a country that issues certificates as to the loading of dangerous cargo in accordance with the relevant international conventions, these certificates should be available for inspection by the Authority, at all times.

§ 401.111-1 Accidents and reports.

An incident or accident involving any vessel, occurring within a canal or an area included between calling-in points, and involving damages or injury, shall be reported immediately to the nearest Seaway radio-telephone station. When required, this initial report shall be followed by a written report signed by the Master; the Master's written report shall be given to the Canal Superintendent before the vessel leaves the canal and any further reports or information required shall be submitted by the representative to the Director of Operation and Maintenance.

§ 401.111-2.

Where the damages or injury are to Seaway property or personnel, the Master shall immediately report the incident to the despatcher and shall follow all special instructions such as mooring the vessel until such times as security satisfactory to the Authority has been furnished.

§ 401.111-3.

Where a vessel founders or runs aground or is otherwise placed in such a position as to obstruct any part of the

Seaway, the Authority may cause it to be removed in any way deemed to be expedient, and the cost of removal shall be chargeable to the owner of the vessel or recoverable from a sale of the vessel. If the proceeds of a sale are insufficient for the latter purpose, then the difference is chargeable to the owner.

§ 401.120-1 Use of bridges, roads, wharves and other Seaway property.

Any unauthorized use of Seaway property is a trespass, punishable as a summary offense.

§ 401.120-2.

Upon application to the Superintending Engineer^{*} passes may be issued to persons having bona fide business on Seaway property.

§ 401.120-3.

Where access is permitted, the right shall be exercised in strict compliance with instructions and orders. Vehicular traffic shall be restricted to roads and other designated places and no person shall allow a vehicle to stand or park except at a designated place. Notice of the designation of vehicle stands or of general instructions and orders may be given by placing signs indicating such instructions.

§ 401.130-1 Toll assessment and collection.

For each transit the representative of the vessel who has obtained Pre-Clearance, must arrange to have the Seaway Passenger and Cargo Declaration Form completed and forwarded to the Seaway Headquarters at Cornwall, Ontario. The Declaration must be mailed within two days from the time that the vessel first enters the Seaway.

§ 401.130-2.

Where a change or modification takes place with respect to the particulars contained in the Declaration either as concerns the destination, nature and quantity of the cargo or the number and destination of passengers, the representative must immediately forward a new Declaration revised accordingly.

§ 401.130-3.

The Declaration will be used for the purpose of assessing tolls and preparing accounts in accordance with the Tariff of Tolls.

§ 401.130-4.

The information given in the Declaration will be transmitted to the Bureau of Statistics at Ottawa by the Authority. This arrangement permits the owners to satisfy the requirements of the Statistics Act of Canada. In respect to the United States the Saint Lawrence Seaway Development Corporation will maintain and furnish such statistical data as may be required.

§ 401.130-5.

Upon receipt of the Declaration, the Authority shall assess the tolls in ac-

cordance with the information given. The account will be forwarded to the representative in two copies. Where the representative has requested in Item 3 of the vessel's Pre-clearance form, that accounts be sent to a bank or financial institution, the two copies of the account will be sent accordingly. The representative shall remain responsible for all payments even though he has indicated a bank or financial institution as his paying agent and if he wishes to receive a copy of the assessment or account, he must make arrangements with such bank or financial institution.

§ 401.130-6.

The amount shown on an account is payable upon receipt of the account; unless it is paid within 14 days from the date shown on the account, a surcharge for nonpayment in an amount not to exceed 5 percent of the amount due, may be added. The payments should be made as indicated on the account, that is, in Canadian funds or American funds as the case may be in accordance with instructions shown on the account. All assessments and accounts will be adjusted periodically, and the adjustment will be reflected in the subsequent accounts or in an adjustment account.

§ 401.130-7.

The Authority may request that a copy of the cargo manifests duly certified by the representative be filed with the Authority. In all cases where a Weight-Scale Certificate or similar document takes the place of the cargo manifest, it may be accepted in lieu of this manifest and copies of these documents may be attached to the declaration.

§ 401.130-8.

Reference is made to § 401.104-5 of Subpart B concerning security required by the Authority with respect to the payment of tolls. The method of paying tolls under special conditions for pleasure craft is also outlined in § 401.104-8 of Subpart B.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION,

[SEAL]

LEWIS G. CASTLE,
Administrator.

§ 401.140-1 St. Lawrence Seaway Vessel Pre-clearance Form.**INSTRUCTIONS**

This form is to be completed for each vessel by its representative as defined in the Seaway Regulations. The representative will be responsible for the documentary and financial arrangements with respect to each transit of the vessel.

When the representative is a Corporation, a resolution will be required authorizing the undertaking unless this document is signed by the President and the Secretary-Treasurer and bears the seal of the company.

A new form will be required for each change in representative or his address and for any major revision in the description of the characteristics of the vessel.

^{*} Note to § 401.101-6 of Subpart B.

NOTICE

NO VESSEL IS PRE-CLEARED UNTIL RECEIPT OF THIS FORM HAS BEEN ACKNOWLEDGED BY THE AUTHORITY

DESCRIPTION

1. Registered name of vessel: _____
2. Operator or managing owner: _____
Name of line (if applicable) _____
Address _____
3. Representative: _____
(a) Name _____
Address _____
Telephone No. _____
(b) Accounts to be mailed as above ☐ or to a bank or financial institution as follows: _____
Name _____
Branch _____
Address _____
4. National registry: _____
(a) Country of registry _____
(b) Port _____
(c) Official number or letters _____
5. Description of vessel: _____
(a) Type: _____
Cargo _____ ☐
Tanker _____ ☐
Dredge _____ ☐
Government _____ ☐
Passenger-cargo (more than 12 passengers) _____ ☐
Scow, barge or non-propelled _____ ☐
Pleasure craft _____ ☐
Cargo-passenger (12 passengers or less) _____ ☐
Tug _____ ☐
Naval _____ ☐
Other (specify) _____ ☐
(b) Tonnage: _____
Gross registered tons _____
Net registered tons _____
(c) Overall length _____ feet _____
(d) Beam (breadth) _____ feet _____
(e) Maximum draught _____ feet _____
6. Security deposit: _____
(a) Type _____
(b) Amount \$ _____
7. Markings: _____
Describe draught markings and where shown: _____
8. Insurance: _____
The Seaway regulations require that vessels be insured pursuant to law. List the insurance coverage on the vessel: _____
9. Radio telephone equipment: _____
Describe the apparatus installed on the vessel, giving the frequencies: _____
10. Installation of stern anchors and of certain signal equipment is recommended: _____
(a) State type and location of stern anchor and method of operation: _____
(b) State if the vessel is equipped with a visible and audible wrong-way alarm system: _____
Yes ☐ No ☐

CERTIFICATE

The undersigned certifies that he is the representative of the vessel described in this form.

The undersigned shall be fully responsible for the carrying out of the obligations of the representative pursuant to the Seaway Regulations and for all the monies that may become due by this vessel during the full term of this certificate.

This certificate shall be binding on the undersigned until a new certificate is filed in respect of this vessel.

The security filed by the undersigned with the Authority shall be maintained during the full currency of this certificate and will be subject to summary forfeiture in the event of default or infringement of the Seaway Regulations or Circulars, by the undersigned.

This certificate shall be good and binding:

- ☐ (a) Continuously until the Authority is otherwise advised in writing by the undersigned; or
- ☐ (b) For the period from midnight of _____ to midnight of _____ or,
- ☐ (c) For the following trips: _____

Dated at _____ this _____ day of _____ 19____

Signed _____
(Print name) _____

[F.R. Doc. 59-3165; Filed, Apr. 17, 1959; 8:45 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 111—POSTAL UNION MAIL

PART 122—REGISTRATION

PART 127—RECALL AND CHANGE OF ADDRESS

PART 131—POSTAL CHARGES

PART 151—INQUIRIES AND COMPLAINTS

Miscellaneous Amendments

Regulations of the Post Office Department are amended as follows:

§ 111.1 [Amendment]

A. In § 111.1 *All categories*, make the following changes:

1. Amend subdivision (1) of paragraph (b) (2) to read as follows:

(1) Address mail articles in legible roman letters placed on the right-hand side of the article, lengthwise, in such a way as to leave space for the postage stamps or postage-paid impressions and the service labels and notations (postmarks, etc.).

NOTE: The corresponding Postal Manual section is 221.122a.

2. In paragraph (c) make the following changes:

a. Subparagraph (2), as amended by Federal Register Document 58-5899 (23 F.R. 5825), and by Federal Register Document 59-941 (24 F.R. 765) is further amended to read as follows:

(2) *How paid.* Postage, registration fees, and insurance fees can be prepaid by means of United States postage stamps or by meter stamps of a bright red color. Precanceled stamps may be used under the same conditions as in the domestic mail. Airmail stamps may be used on airmail articles only, and special delivery stamps on special delivery articles only. Prepayment of postage may also be indicated by means of permit imprints, subject to the general conditions stated in part 34. Permit imprints must

show the amount of postage paid and may be black or any other color. For method of paying postage on second-class matter mailed by the publishers or by registered news agents to Canada, see § 111.2(d) (5) (iii).

NOTE: The corresponding Postal Manual section is 221.132.

- b. Effective May 2, 1959, amend subdivision (ii) of subparagraph (5) to read as follows:

(ii) International reply coupons of United States issue may be purchased at United States post offices for 15 cents each. Each coupon is exchangeable in any country for a stamp or stamps representing the international postage on a single-rate surface letter. Upon presentation of a sufficient number of coupons, the stamp or stamps received in exchange may be used to prepay a letter to this country by air. Unused United States reply coupons may be redeemed by the original purchaser at a discount of 1 cent on the purchase price.

NOTE: The corresponding Postal Manual section is 221.135b.

- c. Subparagraph (6), as amended by Federal Register Document 58-5899 (23 F.R. 5826), is further amended to read as follows:

(6) *Foreign reply-paid cards.* The reply halves of post cards bearing foreign stamps or imprinted postage and the heading *Carte postale reponse* (reply post card) are accepted as fully prepaid for ordinary surface transmission only if addressed to the country represented by the foreign postage. If this condition is not met they are treated as unprepaid post cards. The initial half of the card may be left attached to the reply half provided the address on the initial half is crossed out and folded on the inside of the card. Registry and special delivery fees can be prepaid only with United States stamps. See § 121.3(c) of this chapter regarding additional United States postage required to transmit cards by airmail.

NOTE: The corresponding Postal Manual section is 221.136.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

§ 111.2 [Amendment]

- B. In § 111.2 *Specific categories*, make the following changes:

1. Amend subdivision (ii) of paragraph (a) (3) to read as follows:

(ii) *Minimum dimensions.* The address side must measure at least 4 inches in length and 2¼ inches in width. When in the form of a roll, the length may not be less than 4 inches, or the length plus twice the diameter less than 6¼ inches. Articles having lesser dimensions are accepted on condition that a rectangular address tag is attached whose length and width measure not less than 6¼ inches, with the shorter side not less than 1½ inches.

NOTE: The corresponding Postal Manual section is 221.213b.

2. In subparagraph (4) of paragraph (b) make the following changes:

a. Amend subdivision (iv) to read as follows:

(iv) *Validity of postage.* The prepayment of the reply by means of United States postage is valid only if the card is addressed to this country. If this condition is not complied with, it is treated as an unprepaid post card.

b. Insert new subdivision (v) to read as follows:

(v) *Foreign cards.* See § 111.1(c) (6).

NOTE: The corresponding Postal Manual sections are 221.224d and 221.224e.

3. Amend subparagraph (3) of paragraph (c) to read as follows:

(3) *Dimensions.* Maximum and minimum dimensions are the same as for letters and letter-packages. See § 111.2(a) (3).

NOTE: The corresponding Postal Manual section is 221.233.

4. In paragraph (d) make the following changes:

a. That part of subparagraph (2) which precedes subdivision (i) is amended to read as follows:

(2) *Weight limits.* Printed matter in general is subject to a weight limit of 6 pounds 9 ounces, and printed books to a limit of 11 pounds. The following exceptions apply:

NOTE: The corresponding Postal Manual section is 221.242.

b. Amend subparagraph (3) to read as follows:

(3) *Dimensions.* Maximum and minimum dimensions are the same as for letters and letter-packages. See paragraph (a) (3) of this section.

NOTE: The corresponding Postal Manual section is 221.243.

c. In subparagraph (4) make the following changes:

I. Subdivision (ii), as amended by Federal Register Document 58-5899 (23 F.R. 5826), is further amended by striking out clause (m) and redesignating clauses (n) and (o) as clauses (m) and (n), respectively.

II. In subdivision (iii) redesignate clauses (i) and (j) as clauses (j) and (k) and insert a new clause (i) to read as follows:

(i) Cards bearing the title Post Card. These must be mailed as post cards if they comply with the conditions prescribed for post cards, or as letters.

III. In subdivision (iv) make the following changes:

(i) Amend clause (a) to read as follows:

(a) The name, title, profession, firm, and address of the sender and the addressee; the date of mailing; the signature; telephone or teletype number and exchange; telegraphic address and code; current postal check or bank account of the sender; an order or entry number relating exclusively to the article.

(ii) Amend clause (c) to read as follows:

(c) Striking, underlining, or encircling of certain words or passages of the

printed text, unless it gives the text the character of personal correspondence.

NOTE: The corresponding Postal Manual sections are 221.244b (13), 221.244b (14), 221.244b (15), 221.244c (9), 221.244c (10), 221.244c (11), 221.244d (1), 221.244d (3).

d. Insert new subparagraph (6) to read as follows:

(6) *Direct sacks of prints.* Publishers and news agents sending printed matter abroad in quantity may prepare direct sacks containing ordinary (unregistered) packages of books or other printed matter all addressed to one addressee under the following conditions:

(i) Minimum amount to be mailed in direct sacks, 30 pounds; maximum per sack, 60 pounds.

(ii) Each package must bear the name and address of sender and addressee, must be individually prepaid, and must otherwise comply with the general conditions prescribed for printed matter, except that packages need not conform to the maximum weight limits stated in § 111.2(d) (2). Individual packages must, however, conform to the prescribed limits of size.

(iii) Prepayment of postage shall be by means of meter stamps, precanceled stamps, or meter imprints, in order that the post office will not have to remove the packages from the sacks and cancel the postage.

(iv) The local post office will furnish the necessary string sacks as they are needed.

(v) Attach to the neck of the sack by means of heavy twine an address tag or label showing your name and address and that of the addressee. Place the words Postage Paid in the upper right corner of the address side of the tag or label. The label holder of the sack is used by the post office for insertion of the proper post office label.

(vi) If you have several sacks for the same addressee, mark the address tag on each sack with an identifying fractional number, in the manner prescribed in § 112.5(b) of this chapter for group shipments of parcel-post packages.

NOTE: The corresponding Postal Manual section is 221.246.

5. Subparagraph (3) of paragraph (e), as amended by Federal Register Document 58-4899, (23 F.R. 4740), is further amended to read as follows:

(3) *Dimensions.* Maximum and minimum dimensions are the same as for letters and letter-packages. See paragraph (a) (3) of this section.

NOTE: The corresponding Postal Manual section is 221.253.

6. In paragraph (f) make the following changes:

a. Subparagraph (1), as amended by Federal Register Document 58-5877 (23 F.R. 5763), is further amended to read as follows:

(1) *Rates.* Surface rate for samples of merchandise is 4 cents for the first 2 ounces and 2 cents for each additional 2 ounces or fraction. Minimum charge, 10 cents. For airmail rates see § 111.1(a) of this chapter.

NOTE: The corresponding Postal Manual section is 221.261.

b. Amend subparagraph (3) to read as follows:

(3) *Dimensions.* Maximum and minimum dimensions are the same as for letters and letter-packages. See paragraph (a) (3) of this section.

NOTE: The corresponding Postal Manual section is 221.263.

c. Amend subparagraph (4) to read as follows:

(4) *Description.* The following are admitted at the sample rate: Electrotypes; single cut-out patterns; keys sent singly; fresh cut flowers; articles of natural history (dried or preserved animals and plants, geological specimens, etc.); tubes of serum and vaccine; medicaments of urgent need difficult to obtain. These articles, except tubes of serum and vaccines, and medicaments of urgent need difficult to obtain, sent in the general interest by laboratories, or institutions officially recognized, must not be sent for commercial purposes.

NOTE: The corresponding Postal Manual section is 221.264.

d. In the first sentence of subparagraph (6) insert "or teletype," immediately following the word "telephone".

NOTE: The corresponding Postal Manual section is 221.266.

7. Amend subparagraph (3) of paragraph (g) to read as follows:

(3) *Dimensions.* Maximum and minimum dimensions are the same as for letters and letter-packages. See paragraph (a) (3) of this section.

NOTE: The corresponding Postal Manual section is 221.273.

8. Amend subparagraph (2) of paragraph (h) to read as follows:

(2) *Weight limit and dimensions.* The weight limit is 8 ounces. Maximum and minimum dimensions are the same as for letters and letter-packages. See paragraph (a) (3) of this section.

NOTE: The corresponding Postal Manual section is 221.282.
(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

C. Amend § 122.6 *Return receipts*, to read as follows:

§ 122.6 *Return receipts.*

(a) *Requested at time of mailing.* (1) Fee: 13 cents.

(2) If you desire that your return receipt be sent back by airmail your article must be prepaid an additional fee equal to the airmail postage on a single post card to the country of destination.

(b) *Requested after mailing.* (1) Within a period of 1 year from the day following that on which you mailed a registered article or parcel, you may request a return receipt at the office of mailing. You must show the registry receipt.

(2) Fee: 25 cents.

(3) If you wish the request for return receipt sent by air you must pay, in addition to the 25-cent fee, the postage for a one-rate airmail letter to the country of destination. If you wish the request sent by surface and the receipt

returned to you by air, you must pay the same postage. If you wish the request and the return receipt to be sent in both directions by air, you must pay double the airmail letter rate.

(c) *Completion.* Return receipts for registered articles delivered in other countries are completed in accordance with requirements of the country making delivery, which vary according to the country involved. The signature of the addressee is not furnished by some countries, or may be furnished only under specified conditions.

NOTE: The corresponding Postal Manual section is 232.6.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

§ 122.7 [Amendment]

D. In § 122.7 *Restricted delivery*, amend subparagraph (3) of paragraph (a) to read as follows:

(3) Fee: 50 cents; to be prepaid on your article in addition to other applicable fees and charges.

NOTE: The corresponding Postal Manual section is 132.713.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

E. Amend § 127.1 *Conditions and limitations*, to read as follows:

§ 127.1 Conditions and limitations.

You may cause any mail article or parcel you addressed for delivery in another country to be withdrawn from the postal service, or have its address changed if it can be intercepted in the United States. In case the article has been dispatched from the United States, but not delivered to the addressee, withdrawal or change of address may be effected if:

(a) The country of destination of the article is willing to allow such withdrawal or change of address. (See § 127.3.)

(b) The article has not been confiscated or destroyed by the authorities of the country of destination as being prohibited importation; or

(c) The article has not been seized under provisions of the domestic legislation of the country of destination.

NOTE: The corresponding Postal Manual section is 237.1.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

F. Amend § 127.2 *How to proceed*, to read as follows:

§ 127.2 How to proceed.

(a) *Where to apply.* If the article was mailed in a post office, station or branch make application there. If it was mailed in a street letter box, apply at the main post office. You must identify yourself and submit a written application (on Form 1509 for ordinary or insured mail or 3855 for registered mail) giving a complete description of the article, and the date of mailing.

(b) *Search at office of mailing.* If the article has not been dispatched from the immediate point of mailing, you may have it returned to you or change its address without charge. Otherwise you

may have a search made at the main post office or other concentration point upon paying a fee of 13 cents, whether the search is successful or not. The post office will change the address without charge, but if the article is returned to you, domestic postage will be charged except in the case of letters or post cards, which are returned free of postage. If the mailing office is also the dispatching exchange office, the conditions stated in paragraph (c) of this section will apply.

(c) *Search at exchange office.* You may have a search made for the article at the United States dispatching exchange office if you request it and pay the fee of 13 cents, unless you have already paid it (see paragraph (b) of this section). If you desire such search to include opening made-up sacks, you must guarantee payment of the cost of opening, searching and closing the sacks, whether your article is located or not. If you wish the request sent to the exchange office by telegraph you must pay the cost of the telegram. The exchange office will change the address without charge, but if the article is returned to you, postage will be charged at domestic rates for its transportation to the exchange office and back to your address, unless it is a letter or post card which is returned free of postage. Your post office will inform you of the amount of charges due.

(d) *After dispatch from the United States.* A request will be sent to the postal administration of the country of destination to return an article or change its address if you will furnish a facsimile of the address and pay the 13-cent fee, unless you have already paid it (see paragraphs (b) and (c) of this section). If the request is to be transmitted by telegraph or cable your application must be accompanied with an amount sufficient to pay the telegraph or cable charges. Otherwise your application must be accompanied with additional postage in the amount of 50 cents to cover transmission of the request by registered mail, and with airmail postage if it is desired that it be transmitted to the foreign administration by air. If you wish to have the foreign administration report by airmail, telegraph, or cable on the result of the action taken you must furnish the additional airmail postage or an amount sufficient to cover the cost of a prepaid telegraph or cable reply. Any amount remaining after transmitting a telegram or cablegram will be returned to you. Return postage is charged on parcel post packages and 8-ounce merchandise packages but not on other articles returned from other countries. See paragraph (c) of this section regarding statement to be furnished when your article is addressed to a country which does not generally accept requests for recall or change of address.

(e) *Single application sufficient.* A single form of application may be used for two or more articles which you have mailed together to the same addressee, one fee is charged.

(f) *Mailing receipts.* If you possess a mailing receipt covering any article which is withdrawn or on which the address is changed, you must surrender it or

submit it so that a suitable notation may be made thereon.

NOTE: The corresponding Postal Manual section is 237.2.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

§ 127.3 [Amendment]

G. In paragraph (a) of § 127.3 *Countries not permitting*, strike out the country "Pakistan" where it appears therein.

NOTE: The corresponding Postal Manual section is 237.31.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

H. Section 131.4 *Storage charges*, as amended by Federal Register Document 58-1484 (23 F.R. 1215), is further amended to read as follows:

§ 131.4 Storage charges.

Postal storage charges apply to all parcel-post packages, and to postal union printed matter, commercial papers, and small packets exceeding one pound in weight. If you allow any such package addressed to you to remain in the post office, you must pay 10 cents per day beginning with the 11th day from the first attempt at delivery or the issuance of the first notice that the package is ready for delivery. Sundays and holidays are not counted. When a package is held pending decision as to customs duty (see § 132.1(c) of this chapter), the storage charges begin 10 days after the decision is given.

NOTE: The corresponding Postal Manual section is 241.4.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

§ 151.4 [Amendment]

I. In § 151.4 *Charges for inquiries*, make the following changes:

1. In paragraph (a) strike out the last sentence and insert in lieu thereof the following: "Otherwise, a charge of 20 cents is made. The inquiry or complaint is transmitted by airmail."

NOTE: The corresponding Postal Manual section is 261.41.

2. Amend paragraph (c) to read as follows:

(c) *Telegraph inquiry.* If you desire that your inquiry be sent by telegraph or cable, it must be accompanied with an amount sufficient to pay the telegraph or cable charges, and if you desire a reply by telegraph or cable, you must pay the charges both ways.

NOTE: The corresponding Postal Manual section is 261.43.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

The foregoing amendments are hereby adopted as regulations of the Post Office Department.

ARTHUR E. SUMMERFIELD,
Postmaster General.

[F.R. Doc. 59-3245; Filed: Apr. 17, 1959; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1832]

[Sacramento 053993]

CALIFORNIA

Adding Lands to the Shasta National Forest; Partially Revoking Executive Order No. 4203 of April 14, 1925

By virtue of the authority vested in the President by section 24 of the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), and the Act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and pursuant to the Act of February 20, 1925 (43 Stat. 952), and Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in California are hereby added to and reserved as a part of the Shasta National Forest, and the boundaries of the said Forest are adjusted accordingly:

MOUNT DIABLO MERIDIAN

T. 41 N., R. 1 E.,
Sec. 24, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described contains 40 acres.

Executive Order No. 4203 of April 14, 1925, so far as it withdrew the above-described land in aid of classification, is hereby revoked.

ROGER ERNST,

Assistant Secretary of the Interior.

APRIL 13, 1959.

[F.R. Doc. 59-3258; Filed, Apr. 17, 1959; 8:48 a.m.]

[Public Land Order 1833]

[81024]

ALASKA

Opening Lands Under Section 24 of the Federal Power Act; Projects 408, 2229, 2230; Power Classifications No. 221 and 427

1. In DA-69-Alaska, issued November 21, 1958, the Federal Power Commission vacated the withdrawal created by the filing on July 18, 1923, of an application for a license for Project No. 408, and as amended, on August 24, 1938, affecting the following-described lands:

All lands included within the definite project boundaries inclosing and surrounding the flume and pipe line, power house, dam, and overflowed area on Medvetcha River, about two and one-half miles east of Sitka, as shown on map designated as "Exhibit J" and entitled "Map Accompanying Application of the Sitka Wharf and Power Company for Amendment to License for Hydro-Electric Project No. 408 on the Medvetcha River, Baranof Island. Near Sitka—Territory of Alaska," and filed in the Office of the Federal Power Commission on August 24, 1938.

2. In DA-69-Alaska, the Commission determined that the value of the following-described lands reserved in Power

Site Classifications Nos. 221 and 427, respectively, and those withdrawn pursuant to the filing of the applications for a preliminary permit on April 5, 1957, and for a license on January 2, 1958, respectively, for Project No. 2230, would not be injured or destroyed for purposes of power development by location, entry, or selection under the public land laws, subject to the provisions of section 24 of the Federal Power Act, as amended, and subject to the right of the licensee for Project No. 2230 and its successors to use the lands for purposes of power development as contemplated under the license for the project:

In Power Site Classification No. 221:

All lands below 350 feet in elevation which drain into Blue Lake, six miles east of Sitka, on Baranof Island; a strip of land 200 feet in width on each side of the center line of a tunnel and pipe line location, starting from a point on the shores of Salmon Cove, Silver Bay, which point is N. 62° E., 25 chains from Forest Service Monument located on the west shore of Salmon Cove, and running N. 10° E., approximately 90.00 chains to the south shore of Blue Lake, excluding, however, any lands within two miles of tide-water which are more than one-fourth of a mile from the stream to which they are adjacent.

In Power Site Classification No. 427:

Vicinity of latitude 57°04' N., longitude 135°12' W., six miles east of Sitka:

All lands between elevations 350 feet and 500 feet above sea level which drain into Blue Lake and Medvetcha River (Sawmill Creek) upstream from a point 250 feet downstream from the junction of the stream draining Herring Lake.

All lands below an altitude of 500 feet above sea level draining into Herring Lake and its outlet stream, and not reserved by Power Site Classification No. 221.

In Power Project No. 2230:

First Judicial Division, Baranof Island, Medvetcha River:

All lands lying adjacent to Blue Lake at an altitude of less than 365 feet above sea level as shown on a map designated "Exhibit J" (drawing 5715-01) entitled "City of Sitka, Blue Lake Hydro-Electric Project, General Map, Northeast Section", and filed in the Office of the Federal Power Commission on January 2, 1958.

All lands embracing the dam site, portal intake, tunnel, penstock, powerhouse and transmission line locations as delimited on map sheets designated "Exhibit K" (drawings 5715-03-1, 5715-05-1, 5806-1kk and 5806-2kk), entitled "Detail Map of Area"; subtitled "Upper Tunnel—Dam Site-Intake", "Powerhouse," "Penstock and Tunnel" and "Tunnel and Conduit" respectively, and filed in the Office of the Federal Power Commission on June 30, 1958.

3. In DA-69-Alaska, the Commission vacated the withdrawal created by the filing with it on September 17, 1956, of an application for preliminary permit by Alaska Lumber and Pulp Company, Inc., for Project No. 2229. The lands affected are generally the same as those described in paragraph 2 of this order for Project No. 2230.

4. The lands opened by this order aggregate approximately 2,000 acres, and are within the Tongass National Forest.

5. By virtue of the authority vested in the Secretary of the Interior by section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) as amended, the lands are hereby opened, subject to valid existing rights and the requirements of

applicable law, to such applications, selections, and locations as are permitted on national forest lands, effective at 10:00 a.m. on July 13, 1959, subject to the provisions of section 24 of the Act of June 10, 1920, supra, and to the rights of the licensee and its successors for Project No. 2230, recited in paragraph 2 of this order. Applications presented prior to the time specified will be considered as simultaneously filed at that hour. Applications filed thereafter will be considered in the order of filing.

6. Until 10:00 a.m. on July 13, 1959, the State of Alaska shall have:

(1) A preference right to select such of the lands as may be adjacent to established communities or suitable for prospective community centers and recreational areas, in accordance with the provisions of section 6(a) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), and the lands shall be subject

(2) To application for the reservation to the State of Alaska, or any political subdivision thereof, under any statute or regulation applicable thereto, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways pursuant to section 24 of the Federal Power Act of June 10, 1920, supra.

ROGER ERNST,

Assistant Secretary of the Interior.

APRIL 14, 1959.

[F.R. Doc. 59-3259; Filed, Apr. 17, 1959; 8:48 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

[CGFR 59-6]

PART 10—LICENSING OF OFFICERS AND MOTOR BOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

Subpart 10.10—Professional Requirements for Engineer Officers' Licenses (Inspected Vessels)

SERVICE REQUIREMENTS FOR ORIGINAL LICENSES AS FIRST ASSISTANT ENGINEER OF STEAM OR MOTOR VESSELS OF NOT MORE THAN 1,000 HORSEPOWER

The service requirements for applicants for original licenses as first assistant engineer of steam or motor vessels of limited horsepower were revised in 1957 in accordance with recommendations of the Merchant Marine Council, which were based on Item III of an Agenda considered at a public hearing held May 7, 1957. The amendments to 46 CFR 10.10-13(a) (4) and 10.10-15(a) (4) published July 25, 1957 (22 F.R. 5894), limited the use of service as oiler, watertender or fireman as experience to qualify for only an original license as first assistant engineer of steam or motor towing or ferry vessels of not more than 2,000 horsepower. Since then the Com-

mandant has had to evaluate such service to permit applicants to qualify for first assistant engineer of steam or motor vessels of not more than 1,000 horsepower. The standards followed are those which were in the regulations prior to the amendments published July 25, 1957. In order to eliminate the prior individual evaluation of service and to authorize the Officers in Charge, Marine Inspection, to reinstate prior practices followed, the amendments in this document reinstate in the regulations the general acceptance of service as oiler, water-tender, or fireman as qualifying experience for an original license as first assistant engineer of steam or motor vessels of not more than 1,000 horsepower. It is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule procedures thereon, and effective date requirements thereof) is deemed unnecessary.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F.R. 6521), Treasury Department Order 167-14, dated November 26, 1954 (19 F.R. 8026), and Treasury Department Order CGFR 56-28, dated July 24, 1956 (21 F.R. 5659), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments are prescribed and shall become effective on the date of publication of this document in the FEDERAL REGISTER:

1. Section 10.10-13(a) is amended by adding a new subparagraph (6), reading as follows:

§ 10.10-13 First assistant engineer; steam vessels.

(a) * * *

(6) Three years' service as oiler, watertender or fireman on steam vessels for a license as first assistant engineer of steam vessels of not more than 1,000 horsepower.

2. Section 10.10-15(a) is amended by adding a new subparagraph (6), reading as follows:

§ 10.10-15 First assistant engineer; motor vessels.

(a) * * *

(6) Three years' service as oiler or fireman on motor vessels for a license as first assistant engineer of motor vessels of not more than 1,000 horsepower.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4417a, as amended, 4426, as amended, 4427, as amended, 4438, as amended, 4441, as amended, 4445, as amended, 4447, as amended, sec. 2, 29 Stat. 188, as amended, sec. 1, 34 Stat. 1411, sec. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 7, 53 Stat. 1147, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391a, 404, 405, 224, 224a, 229, 231, 233, 225, 237, 367, 247, 1333, 50 U.S.C. 198)

Dated: April 13, 1959.

[SEAL]

A. C. RICHMOND,
Vice Admiral,
U.S. Coast Guard,
Commandant.

[F.R. Doc. 59-3218; Filed, Apr. 17, 1959; 8:45 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

PART 31—PACIFIC REGION

Subpart—Columbia National Wildlife Refuge, Washington

FISHING

Basis and purpose. Pursuant to the authority conferred upon the Secretary of the Interior by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), as amended and supplemented, and acting in accordance with the authority delegated to me by Commissioner's Order No. 4 (22 F.R. 8126), I have determined that fishing on the Columbia National Wildlife Refuge, Washington, would be consistent with the management of the refuge.

By Notice of Proposed Rule Making published in the FEDERAL REGISTER of March 14, 1959 (24 F.R. 1865), the public was invited to participate in the adoption of a proposed regulation (conforming substantially with the rule set forth below) which would permit fishing on the Columbia National Wildlife Refuge by submitting written data, views, or arguments to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within a period of 30 days from the date of publication. No comments, suggestions, or objections having been received within the 30-day period, the regulations constituting Part 31 are amended by revising § 31.54 of Subpart—Columbia National Wildlife Refuge, Washington, as follows:

§ 31.54 Fishing permitted.

Subject to compliance with the provisions of Parts 18 and 21 of this chapter, noncommercial fishing is permitted on the hereinafter described lands and waters of the Columbia National Wildlife Refuge, Washington, subject to the following conditions, restrictions, and requirements:

(a) *Fishing areas.* The following described areas are open to sport fishing:

Area A. The area of the refuge in T. 17 N., Rs. 28 and 29 E., Grant County, and McManaman Lake and the north shore of Royal Lake, Adams County, Washington, are open to fishing during such period between April 15 and October 31, inclusive, as may be established by State regulation.

Area B. The area of the refuge in T. 16 N., Rs. 28 and 29 E., Adams County, Washington, is open to fishing during such period between November 1 and March 15, inclusive, as may be established by State law.

(b) *State laws.* Strict compliance with all applicable State laws and regulations is required.

(c) *Use of boats.* The use of boats is permitted only for the purpose of fishing in the waters of the refuge, except Royal Lake. Persons may use one outboard motor not to exceed 10 horsepower on each such boat. Water skiing and the use of racing craft, hydroplanes, air thrust craft, or inboard motors is prohibited. Boat launching and landing is restricted to areas reserved for that purpose as designated by posting.

In accordance with the requirements imposed by section 4(c) of the Administrative Procedure Act of June 11, 1946, 60 Stat. 238; 5 U.S.C. 1003(c), the foregoing amendment shall become effective on the 31st day following publication in the FEDERAL REGISTER.

(Sec. 10, 45 Stat. 1224; 16 U.S.C. 715i)

Dated: April 14, 1959.

D. H. JANZEN,
Director, Bureau of
Sport Fisheries and Wildlife.

[F.R. Doc. 59-3256; Filed, Apr. 17, 1959; 8:47 a.m.]

PART 31—PACIFIC REGION

Subpart—Malheur National Wildlife Refuge, Oregon

FISHING

Basis and purpose. Pursuant to the authority conferred upon the Secretary of the Interior by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), as amended and supplemented, and acting in accordance with the authority delegated to me by Commissioner's Order No. 4 (22 F.R. 8126), I have determined that fishing on the Malheur National Wildlife Refuge, Oregon, would be consistent with the management of the refuge.

By Notice of Proposed Rule Making published in the FEDERAL REGISTER of March 5, 1959 (24 F.R. 1655), the public was invited to participate in the adoption of a proposed regulation (conforming substantially with the rule set forth below) which would permit fishing on the Malheur National Wildlife Refuge by submitting written data, views, or arguments to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within a period of 30 days from the date of publication. No comments, suggestions, or objections having been received within the 30-day period, the regulations constituting Part 31 are amended by deleting §§ 31.202, 31.205, and 31.206, and revising § 31.201 of Subpart—Malheur National Wildlife Refuge, Oregon, as follows:

§ 31.201 Fishing permitted.

Subject to compliance with the provisions of Parts 18 and 21 of this chapter, sport or noncommercial fishing is permitted during the daylight hours on the waters hereinafter specified of the Malheur National Wildlife Refuge, Oregon, subject to the following conditions, restrictions, and requirements:

(a) *State laws.* Strict compliance with all applicable State laws and regulations is required.

(b) *Waters open to fishing.* During the period from July 1 through September 30, inclusive, of each year, fishing is permitted from the shoreline or from boats in Krumbo Reservoir and Krumbo Creek. During the general fishing season prescribed by the State of Oregon, fishing is permitted only from the banks of Bridge Creek and of the Blitzen River from the mouth of Bridge Creek, where

it enters the river, southward to the south boundary of the refuge.

(c) *Use of boats.* The use of row-boats, without motors, is permitted only for the purpose of fishing in the Krumbo Reservoir. Except for official purposes, the use of boats or floating devices of any description is prohibited on all other waters of the refuge and the use of motor-propelled boats is prohibited on all waters of the refuge. Boats may be launched only at sites designated for the purpose by suitable posting by the Refuge Officer in charge.

§§ 31.202, 31.205, 31.206 [Deletion]

In accordance with the requirements imposed by Section 4(c) of the Administrative Procedure Act of June 11, 1946, 60 Stat. 238; 5 U.S.C. 1003(c), the foregoing amendment shall become effective on the 31st day following publication in the FEDERAL REGISTER.

(Sec. 10, 45 Stat. 1224; 16 U.S.C. 715i)

Dated: April 14, 1959.

D. H. JANZEN,
Director, Bureau of
Sport Fisheries and Wildlife.

[F.R. Doc. 59-3254; Filed, Apr. 17, 1959;
8:47 a.m.]

PART 33—CENTRAL REGION

Subpart—Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin

HUNTING

Basis and purpose. Pursuant to the authority conferred upon the Secretary of the Interior by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1224; 16 U.S.C. 715i), as amended and supplemented, and acting in accordance with the authority delegated to me by Commissioner's Order No. 4 (22 F.R. 8126), I have determined that hunting on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin, would be consistent with the management of the refuge.

By Notice of Proposed Rule Making published in the FEDERAL REGISTER of March 5, 1959 (24 F.R. 1656), the public was invited to participate in the adoption of a proposed regulation (conforming substantially with the rule set forth below) which would permit hunting on the Upper Mississippi River Wild Life and Fish Refuge by submitting written data, views, or arguments to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D.C., within a period of 30 days from the date of publication. No comments, suggestions, or objections having been received within the 30-day period, the regulations constituting Part 33 are amended by revising § 33.274 of Subpart—Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin, as follows:

§ 33.274 Hunting permitted.

The hunting of upland game birds, game mammals, migratory game birds, and wildlife species not specifically protected by Federal or State laws is per-

mitted within the open areas of the Upper Mississippi River Wild Life and Fish Refuge subject to the following conditions, restrictions, and requirements:

(a) *State laws.* Any person who hunts within the refuge must comply with all applicable State laws and regulations, and hunting is not permitted at any time when State law or regulation does not allow such hunting.

(b) *Hunting licenses and permits.* Any person who hunts within the refuge shall be in possession of a valid State hunting license if such license is required, which license shall serve as a Federal permit for hunting on lands of the refuge.

(c) *Federal hunting laws.* Any person hunting migratory game birds within the open areas of the refuge must comply with the regulations prescribed under the Migratory Bird Treaty Act.

(d) *Hunting season and open areas.* During the period commencing on the first day of the migratory waterfowl hunting season until March 1 of each succeeding year, public hunting is permitted on all the lands under the jurisdiction of the Bureau of Sport Fisheries and Wildlife except within the closed areas as defined in § 33.275: *Provided*, That the hunting of deer with bow and

arrow may be permitted in advance of the migratory waterfowl hunting season.

(e) *Entry.* Entry on and use of the refuge for any purpose are governed by the regulations in Parts 18 and 21 of this chapter, and strict compliance therewith is required. Persons entering the refuge for the purpose of hunting shall follow such routes of travel as may be designated by suitable posting by the refuge officer in charge. Hunters, when entering or leaving a public hunting area, must report to representatives of the Bureau or of the State at such checking stations as may be established for the purpose of regulating the hunt.

In accordance with the requirements imposed by section 4(c) of the Administrative Procedure Act of June 11, 1946, 60 Stat. 238; 5 U.S.C. 1003(c), the foregoing amendment shall become effective on the 31st day following publication in the FEDERAL REGISTER.

(Sec. 10, 45 Stat. 1224; 16 U.S.C. 715i)

Dated: April 14, 1959.

D. H. JANZEN,
Director, Bureau of
Sport Fisheries and Wildlife.

[F.R. Doc. 59-3255; Filed, Apr. 17, 1959;
8:47 a.m.]

PROPOSED RULE MAKING

POST OFFICE DEPARTMENT

[39 CFR Parts 111, 122, 127, 131,
151]

INTERNATIONAL MAIL

Changes in Regulations Based on Universal Postal Convention of Ottawa

As a result of the Universal Postal Convention of Ottawa which became effective April 1, 1959, it is necessary that certain changes be made in the international mail regulations.

The Department proposes to adopt the amendments to §§ 111.1, 111.2, 122.6, 122.7, 127.1, 127.2, 127.3, 131.4, and 151.4, as set forth herein,¹ on a temporary basis.

These proposed amendments to Title 39, Code of Federal Regulations, relate to both a proprietary and a foreign affairs function of the Government, and are therefore exempt from the rule making requirements of 5 U.S.C. 1003. However, the Postmaster General desires to voluntarily observe the requirements in this case so that postal patrons may have an opportunity to present written views concerning the proposed regulations. Comments may be transmitted to Mr. Greever P. Allan, Director, International Service Division, Bureau of Transporta-

¹ See Title 39, Chapter I, Parts 111, 122, 127, 131, and 151, *supra*.

tion, Washington 25, D.C., at any time prior to May 29, 1959.

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F. R. Doc. 59-3244; Filed, Apr. 17, 1959;
8:45 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 202]

MINIMUM WAGE DETERMINATION

Fabricated Structural Steel Industry; Notice of Extension of Time To Submit Exceptions

On March 27, 1959, notice was published in the FEDERAL REGISTER (24 F.R. 2404-2407) of the tentative decision in the determination of prevailing minimum wages in the fabricated structural steel industry. The notice provided that within fifteen days from the date of its publication interested persons could submit to the Secretary of Labor, Washington 25, D.C., their written exceptions to the proposed actions.

Notice is hereby given, upon cause shown, that the time for filing such written exceptions with the Secretary of Labor is extended to May 2, 1959.

Signed at Washington, D.C., this 14th day of April 1959.

JAMES T. O'CONNELL,
Acting Secretary of Labor.

[F.R. Doc. 59-3269; Filed, Apr. 17, 1959;
8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order 551, Amdt. 48]

LOAN AGREEMENTS

Redelegation of Authority

APRIL 14, 1959.

Paragraphs (c) and (d) of section 120 of Order 551, as amended, is amended to read as follows:

Sec. 120. Loan agreements. * * *

(c) \$500 for a one year course of studies or \$2,000 for a four year course of studies in the case of educational loans to individual Indians.

(d) \$20,000 in the case of loans by corporations, tribes, and bands to cooperative associations and individual Indians, and loans by credit associations to individual Indians, or such lesser amount as may be agreed to by the lender and the Commissioner, except loans for educational purposes.

GLENN L. EMMONS,
Commissioner.

APRIL 14, 1959.

[F.R. Doc. 59-3257; Filed, Apr. 17, 1959;
8:48 a.m.]

National Park Service

[Region 4 Order 3, Amdt. 4]

REGIONAL ADMINISTRATIVE OFFICER
AND REGIONAL PROCUREMENT
AND PROPERTY OFFICER

Delegation of Authority

MARCH 20, 1959.

Sections 4 and 5 of Order No. 3, issued February 17, 1956 (21 F.R. 1494), are amended to read as follows:

Sec. 4. *Regional Administrative Officer.* The Regional Administrative Officer may execute and approve contracts not in excess of \$100,000 for construction, supplies, equipment, and services. This authority may be exercised by the Regional Administrative Officer in behalf of any office or area for which the Region Four Office serves as the field finance office.

Sec. 5. *Regional Procurement and Property Officer.* The Regional Procurement and Property Officer may execute and approve contracts not in excess of \$50,000 for construction, supplies, equipment, and services. This authority may be exercised by the Regional Procurement and Property Officer in behalf of any office or area for which the Region Four Office serves as the field finance office.

(National Park Service Order No. 14; 39 Stat. 535; 16 U.S.C., 1952 ed., sec. 2)

LAWRENCE C. MERRIAM,
Regional Director.

[F.R. Doc. 59-3260; Filed, Apr. 17, 1959;
8:48 a.m.]

No. 76—4

NOTICES

Office of the Secretary

MINUTE MAN NATIONAL HISTORIC
SITE, MASSACHUSETTS

Order of Designation

Whereas, the Congress of the United States has declared it to be a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States; and

Whereas, the outbreak of the War of the Revolution was essential and prerequisite to the achievement of American independence and the creation of a Federal Government; and

Whereas, the events which relate to the beginning of Revolutionary hostilities on April 19, 1775, along the road and roadsides between Lexington and Concord, Massachusetts, associated with Paul Revere, the Minute Men and the British, are of great importance in American history; and

Whereas, the two parcels of land, described below, along the Lexington-Concord Road contain the original stone walls, boulders, and other features of the natural setting where, on April 19, 1775, the opening day of the American Revolution, Colonial Minute Men fired on the British troops retreating along this historic route; and

Whereas, the said Lexington-Concord Road has been declared by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments to be of national historical significance; and

Whereas, the properties described below have been recommended for immediate preservation by the Boston National Historic Sites Commission, which was created by the Congress by Joint Resolution of June 16, 1955 (69 Stat. 136), to investigate the feasibility of establishing a coordinated local, State and Federal program in the city of Boston, Massachusetts, and general vicinity thereof, for the purpose of preserving the historic properties, objects, and buildings in that area:

Now, therefore, under and by virtue of the authority conferred by section 2 of the Act of Congress approved August 21, 1935 (49 Stat. 666; 16 U.S.C., secs. 461-467), I do hereby designate the following described lands to be a national historic site, having the name "Minute Man National Historic Site":

A tract of land along the Lexington-Concord Road, in Massachusetts, more particularly described as follows:

Parcel A

A certain parcel of land situated in the Town of Lincoln, County of Middlesex, Commonwealth of Massachusetts, being a portion of Tract No. A-137 of Hanscom Air Force Base and more particularly bounded and described as follows:

Beginning at the corner of a stone wall on the north side of State Highway Route 2A which marks the boundary line between land now or formerly Charles Carruth and land now or formerly J. C. and I. R. Haganian and is located south 11°39'20" east 203.65 feet from a point from a Land Court Disc at the

northeasterly corner of land of said Charles Carruth;

Thence running north 80°51'50" east by the stone wall and the northerly side of said State Highway Route No. 2A and Nelson Road 83.63 feet, and north 83°08'10" east 76.73 feet to the true point of beginning;

Thence running north 11°39'20" west by land of said Haganian 201 feet, more or less, to a point;

Thence turning and running north 63°35'40" east through land of the owner 190 feet, more or less, to a point on a curve;

Thence turning and running southeasterly by a curve to the left and whose radius is 1,500 feet, a distance of 153 feet, more or less, to a point of tangency;

Thence continuing south 29°19' east 122 feet to the stone wall and northerly side of said Nelson Road;

Thence turning and running by the northerly side of said Nelson Road south 76°18'20" west and 100 feet, more or less, and south 83°08'10" west 165.64 feet to the point of beginning.

Containing 1.19 acres more or less.

Parcel B

A certain parcel of land situated in the Town of Lincoln, County of Middlesex, Commonwealth of Massachusetts, being a portion of Tract No. A-137 of Hanscom Air Force Base and more particularly bounded and described as follows:

Beginning at a drill hole in the corner of a stone wall on the northerly side of Nelson Road at land now or formerly James P. & Henry Neville;

Thence running by a stone wall on the north side of Nelson Road south 74°18'50" west 203.23 feet to a drill hole, south 85°39'30" west 54.00 feet, south 80°36'50" west 100.75 feet, south 74°54'30" west 142.76 feet, south 51°30'08" west 45.59 feet, south 60°30'50" west 123.54 feet, south 56°55'20" west 197.52 feet, south 55°57'30" west 205.13 feet, south 58°33'00" west 55.77 feet, more or less, to a point;

Thence turning and running north 29°19' west through land of the owner 141.43 feet, to a point of curve;

Thence continuing to run northwesterly by a curve to the right whose radius is 1,400 feet, a distance of 143 feet, more or less, to a point on the southeasterly boundary line of Hanscom Field, Family Housing Project, Parcel No. C-2;

Thence turning and running by the southeasterly boundary of the said Family Housing Project, north 64°41'37.5" east 150 feet, north 55°55'45" east 400 feet, more or less, to a point;

Thence turning and running north 78°56' east 86.00 feet, north 42°22' east 36.0 feet, north 57°38' east 36.0 feet, north 74°35'30" east 131.0 feet, north 70°35'30" east 138 feet, north 50°35'30" east 127 feet, more or less, to a point on stone wall at land now or formerly of James P. and Henry Neville;

Thence turning and running by the stone wall of certain level south 30°33'30" east 120 feet, more or less, to a point and south 29°49'20" east 236.72 feet to the drill hole and the point of beginning.

Containing 6.89 acres more or less.

Subject, however, to existing easements for public highways, roads, railroads, pipelines, and public utilities.

The administration, protection, and development of this national historic site shall be exercised in accordance with the Act of August 21, 1935, supra.

Warning is expressly given to all unauthorized persons not to appropriate,

injure, destroy, deface, or remove any feature of this historic site.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of the Interior to be affixed, in the City of Washington, this 14th day of April 1959.

[SEAL]

FRED A. SEATON,
Secretary of the Interior.

[F.R. Doc. 59-3261; Filed, Apr. 17, 1959;
8:48 a.m.]

POST OFFICE DEPARTMENT

URUGUAY, PARCEL POST; SPAIN, FIREARMS FOR HUNTING ADMITTED

1. The Postal Administration of Uruguay has given notice that the suspension of parcel post service to Colonia and Nueva Palmira, published in the FEDERAL REGISTER (24 F.R. 2451) of March 28, 1959, applies only to the free zones in those cities.

Parcels for Colonia and Nueva Palmira, unless addressed for delivery through the free zones, are to be accepted and dispatched.

2. The Spanish Postal Administration has given notice that the prohibition against arms shown under the country item Spain in § 168.5 of Title 39, Code of Federal Regulations applies to military arms only, and that firearms for hunting are admitted.

(R.S. 161, as amended, 396, as amended, 398, as amended, 5 U.S.C. 22, 369, 372)

[SEAL]

HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-3246; Filed, Apr. 17, 1959;
8:45 a.m.]

CIVIL SERVICE COMMISSION

SKILLS CRITICAL TO NATIONAL SECURITY EFFORT

Notice of Positions for Which There is Determined To Be a Manpower Shortage

Under the provisions of Public Law 85-749, the Civil Service Commission has determined that for the following positions there is a manpower shortage in skills critical to the national security effort:

Group or Series Code and Occupation

- GS-015 Operations Research.
- GS-602 Medical Officer.
- GS-800 All Professional Engineering Series.
- GS-802 Engineering Aid and Technician (California only).
- GS-816 Cartographic Drafting (California only).
- GS-818 Engineering Design and Drafting (In St. Paul-Minneapolis area, and in States of California and Utah).
- GS-1040 Architecture.
- GS-1221 Patent Adviser.
- GS-1224 Patent Examiner, in Washington, D.C.
- GS-1301 Physical Science Administration.
- GS-1310 Physics.
- GS-1312 Electronic Research, Development, and Test.

- GS-1313 Geophysical Exploration, Survey, and Investigation.
- GS-1320 Chemistry.
- GS-1321 Metallurgy.
- GS-1330 Astronomy.
- GS-1340 Meteorology.
- GS-1350 Geology.
- GS-1360 Oceanography.
- GS-1390 Technology (Plastics, Rubber, Rubber and Plastics, Photographic Equipment, Packaging and Preservation, Industrial Radiography, Aviation Survival Equipment).
- GS-1520 Mathematics.
- GS-1530 Mathematical Statistics.
- GS-1710 College Instruction and Administration (Aerodynamics; Chemistry; Design; Electrical Engineering; Engineering, General; Mathematics; Mechanics; Metallurgy; Physics, Scientific and/or Engineering) in Dayton, Ohio, area.
- GS-1372 Geodesy.

Geographical coverage is continental United States and Alaska except as otherwise indicated above.

Any agency having positions in the occupations listed may pay travel and transportation costs of new appointees to such positions in accordance with travel regulations issued by the Bureau of the Budget.

While the list is arranged by occupational groups and series established under the Classification Act of 1949 as amended, comparable occupations not subject to the Classification Act are also included.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-3275; Filed, Apr. 17, 1959;
8:50 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

ROBERT D. JAMES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

- A. Deletions: No change.
- B. Additions: No change.

This statement is made as of April 10, 1959.

ROBERT D. JAMES.

APRIL 10, 1959.

[F.R. Doc. 59-3270; Filed, Apr. 17, 1959;
8:49 a.m.]

WILLIAM B. THOMAS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and

Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months.

- A. Deletions: No change.
- B. Additions: No change.

This statement is made as of April 2, 1959.

WILLIAM B. THOMAS.

APRIL 8, 1959.

[F.R. Doc. 59-3271; Filed, Apr. 17, 1959;
8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8614]

AEROVIAS SUD AMERICANA, INC.

Notice of Oral Argument on Certificate Renewal and Extension Case

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on May 13, 1959, at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., April 14, 1959.

[SEAL]

FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-3274; Filed, Apr. 17, 1959;
8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12310; FCC 59-306]

ENTERTAINMENT AND AMUSEMENTS OF OHIO, INC.

Order Designating Applications for Hearing on Stated Issues

In re application of Entertainment and Amusements of Ohio, Inc., Solway, New York, Docket No. 12310, File No. BP-10988; Requests: 1320 kc, 500 w, DA, D, for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 8th day of April 1959;

The Commission having under consideration the above captioned and described application; and

It appearing, that, except as indicated by the issues specified below, the applicant is legally, technically, financially, and otherwise qualified to construct and operate its proposed station, but that the station as proposed would cause objectionable interference to Station WOSC, Fulton, New York; and

It further appearing, that, in a petition filed on September 22, 1958, Star Broadcasting Company, Inc., licensee of Station WTLB, Utica, New York, requests that it be made a party to a hearing on this application on the grounds that, in substance, the proposal will cause objec-

tionable interference to WTLB "within its 0.5 m/m interference free contour; that WTLB will be injured economically because it sells advertising on the basis of coverage beyond its normally protected contour; the proposed transmitter site is in "Solvay-waste", a hard, rock-like industrial residue where a satisfactory ground system would be difficult to install, raising the cost of construction above that shown by the applicant; and that the applicant is not financially qualified because its estimated costs of construction and operation are not adequate, and its available funds are insufficient; and

It further appearing, that, on October 13, 1958, the instant applicant amended its proposal to show loans totalling \$29,000; and, on November 19 and December 3, 1958, amended its proposal to change its directional antenna pattern with the result that no objectionable interference would be caused to Station WTLB; and

It further appearing, that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applicant and other known parties in interest were advised by letter dated February 13, 1959 of the aforementioned interference to Station WOSC; and of WTLB's allegations with respect to objectionable interference and increased cost of construction because of the "Solvay-waste" matter; and

It further appearing, that, in an amendment filed on March 16, 1959, the instant applicant submitted (a) additional engineering comments indicating that its proposal as amended would cause no objectionable interference to WTLB and (b) an affidavit by R. C. Helmer of the R. C. Helmer Construction Co., Inc. of Syracuse, New York, in which he states that during the construction of two buildings near the proposed transmitter site "we found the soil to consist of approximately 6 inch gravel fill over 3 to 4 inches of waste from the nearby pottery factory * * * underlying [which] is finely divided particles of calcium carbonate", * * * that "our deepest excavation was to an approximate depth of 10 feet [and] nowhere did we encounter any rock or hard-pan formations"; * * * and that "all excavation was done readily with a back-hoe and by hand"; and that in the said amendment, the applicant stated that "no difficulty nor additional expense should be experienced in the erection of the proposed tower and installation of [the] radial ground system"; and

It further appearing, that in a timely reply to the Commission's above-referenced letter, the licensee of Station WOSC requested that it be made a party to a hearing on the instant proposal because of the aforementioned interference; and

It further appearing, that, examination of the instant proposal indicates that it would cause no objectionable interference to Station WTLB, Utica, New York; that the instant applicant shows \$12,571 paid-in stock, equipment manufacturer's deferred credit in the amount

of \$13,808, a bank loan in the amount of \$20,000, and a personal loan of \$9,000, or a total of \$55,379 available to meet estimated construction costs of \$27,596 plus operating expenses for a reasonable period of time until the station may be showing a profit; and that, therefore, we are of the opinion, the instant applicant is financially qualified; and

It further appearing, that we believe the showing made by Star Broadcasting Co., Inc. raises no substantial question as to whether "Solvay-waste" at the transmitter site of the instant proposal would raise the cost of construction to the extent that the instant applicant could not finance his proposal; and

It further appearing, that, after consideration of the foregoing, we are of the opinion that the said petition by Star Broadcasting Co., Inc., should be denied, that the instant application should be designated for hearing, and that the licensee of Station WOSC should be made a party to the proceeding;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing at a time and place to be specified in a subsequent order upon the following issues:

1. To determine the areas and populations which would receive primary service from the instant proposal and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation of Entertainment and Amusements of Ohio, Inc., would involve objectionable interference with Station WOSC, Fulton, New York, or any other existing broadcasting station; and if so, the nature and extent thereof upon the areas and populations affected thereby.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That Cassill Radio Corporation, licensee of Station WOSC, Fulton, New York, is made a party to the proceeding.

It is further ordered, That, the instant petition of Star Broadcasting Company, Inc., is denied.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of the order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the order.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3276; Filed, Apr. 17, 1959;
8:50 a.m.]

[Docket No. 12432-12435; FCC 59M-475]

WILSON BROADCASTING CORP. ET AL.

Order Granting Motion, in Part, To Defer Proceedings

In re applications of Wilson Broadcasting Corporation, New Bedford, Massachusetts, Docket No. 12432, File No. BPCT-2232; E. Anthony & Sons, Inc., New Bedford, Massachusetts, Docket No. 12433, File No. BPCT-2233; Eastern States Broadcasting Corp., New Bedford, Massachusetts, Docket No. 12434, File No. BPCT-2252; New England Television Company, Inc., New Bedford, Massachusetts, Docket No. 12435, File No. BPCT-2425; for construction permits for new television broadcast stations.

The Hearing Examiner having under consideration: (1) a "Motion to Defer Proceedings Pending Commission Ruling" filed March 31, 1959, by New England Television Company; (2) an Opposition thereto filed April 7, 1959, by E. Anthony & Sons, Inc.; and (3) the Docket Record of prehearing conference transcripts and pleadings heretofore filed in the proceeding; and

It appearing that movant seeks—and Anthony opposes—postponement of the dates for various exhibit exchanges and evidentiary hearings¹ which were established in prehearing conferences heretofore held; and

It further appearing that Wilson Broadcasting Corporation has filed an appeal to the Commission from the Hearing Examiner's rulings on the procedural schedule, and in that pleading Wilson also seeks other relief including a conference with the Commission en banc or a Board concerning the procedure to be followed in regard to issue number 1² in this hearing; and

It further appearing that the above Wilson pleading has evoked formal responses from various parties, including the Broadcast Bureau and the United States Coast Guard, and that important questions involving National defense and security matters are thus pending before the Commission; and

It further appearing that it will conduce to the orderly dispatch of business to postpone the further proceedings relating to the first issue until the Commission acts on the questions presented

¹ The transcript record shows the procedural schedule to be:

April 15: Exchange of exhibits on issue number 1;

April 27: Hearing of evidence on issue number 1;

May 1: Exchange of exhibits on all other issues;

May 11: Further prehearing conference; and

May 18, 25, June 1 and 8: Hearings of evidence on all other issues for each applicant.

² Issue number 1 is as follows: To determine whether the operations proposed in the above-captioned applications would adversely affect the operations of the U.S. Coast Guard LORAN-C (radionavigation) station located on Martha's Vineyard.

by the pending pleadings, but that the comparative hearing upon other issues need not be delayed on account of the uncertainty regarding issue number 1; now therefore,

It is ordered, This 14th day of April 1959, that the Motion to Defer Proceedings is granted in part and the dates for the exchange of exhibits and for the hearing of evidence relating to issue number 1 are postponed to a date to be fixed by subsequent order and, *It is further ordered*, That the said motion is denied in all other respects.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3277; Filed, Apr. 17, 1959;
8:50 a.m.]

[Docket No. 12688; FCC 59M-477]

SOUTHERN GENERAL BROADCASTING CO., INC. (WTRO)

Order Continuing Hearing

In re application of Southern General Broadcasting Company, Inc. (WTRO), Dyersburg, Tennessee, Docket No. 12688, File No. BP-11422; for construction permit.

The Hearing Examiner having under consideration a petition filed on April 14, 1959, by Southern General Broadcasting Company, Inc., requesting that the hearing in the above-entitled proceeding presently scheduled for April 15, 1959, be continued to May 6, 1959;

It appearing that counsel for the other parties to this proceeding have informally agreed to a waiver of the four-day requirement of § 1.43 of the Commission's rules and consented to a grant of the instant petition, and good cause has been shown for the proposed continuance;

It is ordered, This 14th day of April 1959, that the petition be and it is hereby granted; and the hearing in the above-entitled proceeding be and it is hereby continued to May 6, 1959, at 10 a.m., in Washington, D.C.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3278; Filed, Apr. 17, 1959;
8:50 a.m.]

[Docket No. 12764; FCC 59M-472]

BRUCE W. ZIRLOTT

Order Continuing Hearing

In the matter of Bruce W. Zirlott, Route 1, Box 121, Theodore, Alabama, Docket No. 12764; order to show cause why there should not be revoked the license for Radio Station WH-2007 aboard the vessel "Audrey Dell."

The Hearing Examiner having under consideration the motion to continue proceeding filed on April 10, 1959, in the above-entitled matter by the Chief, Safety and Special Radio Services Bureau;

It appearing, that Commission records indicate a failure to effectuate service of the order to show cause herein and accordingly, an indefinite continuance is requested pending receipt of proof of service;

It is ordered, This 13th day of April 1959, that the said motion is granted and the hearing in this matter presently scheduled to commence on April 17, 1959, is continued without date.

Released: April 14, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3279; Filed, Apr. 17, 1959;
8:50 a.m.]

[Docket No. 12768; FCC 59M-474]

TEXAS TRAWLERS, INC.

Order Continuing Hearing

In the matter of Texas Trawlers, Inc., P.O. Box 330, Brownsville, Texas, Docket No. 12768; order to show cause why there should not be revoked the license for Radio Station WF-5985 aboard the vessel "Kashner" or, in the alternative, why a cease and desist order should not be issued.

The Hearing Examiner having under consideration a motion filed by the Chief, Safety and Special Radio Services Bureau, on April 10, 1959, requesting an indefinite continuance of the hearing;

It appearing that the respondent is in the process of transferring the documentation of the above-captioned vessel to the Republic of Honduras and that if this transfer of registration is accomplished the issues in the hearing will become moot; and

It further appearing that under these circumstances it would be inadvisable to proceed with the hearing now scheduled for April 22, 1959;

It is ordered, This 14th day of April 1959, that the motion of the Safety and Special Radio Services Bureau is granted and the hearing is continued indefinitely.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3280; Filed, Apr. 17, 1959;
8:51 a.m.]

[Docket No. 12771 etc.; FCC 59M-443]

GOLDEN GATE CORP. ET AL.

Order Continuing Hearing

In re application of Golden Gate Corporation, Providence, Rhode Island, Docket No. 12771, File No. BP-11945;

Lorraine S. Salera, Arthur L. Movsoyitz and Edson E. Ford d/b as Bristol County Broadcasting Co., Warren, Rhode Island, Docket No. 12772, File No. BP-11407; Radio Rhode Island, Inc., Providence, Rhode Island, Docket No. 12773, File No. BP-12383; Camden Broadcasting Company, Inc., Providence, Rhode Island, Docket No. 12784, File No. BP-12836; for construction permits for new standard broadcast stations.

The Hearing Examiner having under consideration the designation of a date for commencement of hearing;

It appearing that the date of April 20, 1959, was heretofore set but that the prehearing conference has determined upon a different date;

It is ordered, This 6th day of April 1959, that the date for commencement of hearing is continued from April 20 to June 23, 1959.

Released: April 7, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3281; Filed, Apr. 17, 1959;
8:51 a.m.]

[Docket No. 12828]

PENN NO. 6, INC.

Order To Show Cause Assigning Matter for Public Hearing

In the matter of Penn No. 6, Inc., 136 East 57th Street, New York 22, New York, Docket No. 12828; order to show cause why there should not be revoked the license for Radio Station WD-8142, aboard the vessel "Bill Endter."

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows: Official Notice of Violation dated January 9, 1959, calling attention to the following violation of the Commission's rules, which was observed on January 6, 1959:

Section 8.366(b)(2): Failure to establish communication by calling and answering on 2182 kcs. No evidence of a pre-arranged schedule on 2738 kcs.

It further appearing, that, the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated February 9, 1959, and sent by Certified Mail, Return Receipt Requested (No. 635373), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter

might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing, that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, J. Corte, on February 11, 1959, to a Post Office Department return receipt; and

It further appearing, that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response thereto has been received; and

It further appearing, that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

It is ordered, This 15th day of April, 1959, pursuant to section 312(a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing¹ to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail, Return Receipt Requested to the said licensee.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3283; Filed, Apr. 17, 1959;
8:51 a.m.]

¹Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person, or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

[Docket No. 12781; FCC 59M-473]

GULF MARINE SERVICE CORP.

Order Continuing Hearing

In the matter of Gulf Marine Service Corporation, P.O. Box 330, Brownsville, Texas, Docket No. 12781; order to show cause why there should not be revoked the license for Radio Station WH-5094 aboard the vessel "Four Brothers" or, in the alternative, why a cease and desist order should not be issued.

The Hearing Examiner having under consideration a motion filed by the Chief, Safety and Special Radio Services Bureau on April 10, 1959, requesting an indefinite continuance of the hearing;

It appearing that the respondent is in the process of transferring the documentation of the above-captioned vessel to the Republic of Honduras and that if this transfer of registration is accomplished the issues in the hearing will become moot; and

It further appearing that under these circumstances it would be inadvisable to proceed with the hearing now scheduled for April 23, 1959;

It is ordered, This 14th day of April 1959, that the motion of the Safety and Special Radio Services Bureau is granted and the hearing is continued indefinitely.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3282; Filed, Apr. 17, 1959;
8:51 a.m.]

[Docket Nos. 12833, 12834; FCC 59-313]

GEORGE T. HERNREICH ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: George T. Hernreich, Jonesboro, Arkansas, Docket No. 12833, File No. BPCT-2538; Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers, Jonesboro, Arkansas, Docket No. 12834, File No. BPCT 2567; for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 8th day of April 1959;

The Commission having under consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 8, assigned to Jonesboro, Arkansas; and

It appearing, that the applications of George T. Hernreich and Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers are mutually exclusive in that operation by both applicants as proposed would result in mutually destructive interference; and

It further appearing, that George T. Hernreich and Alan G. Patteson, Jr. and

Mathew Carter Patteson, d/b as Patteson Brothers, each propose to operate from transmitter sites which do not meet the co-channel mileage separations for television broadcast stations in Zone I as required by § 3.610 of the rules with respect to the post office reference point in Carbondale, Illinois; that in its Report and Order in Docket No. 12011 adopted on March 21, 1958, the Commission recognized the necessity of locating a transmitter for Channel *8 assigned to Carbondale outside of the city; that George T. Hernreich and Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers, have requested waivers of § 3.610 of the rules on the basis of the aforementioned Report and Order; and that the Commission is unable to determine at this time whether a waiver would be justified; and

It further appearing, that George T. Hernreich and Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers, have requested waivers of § 3.613(a) of the rules to locate their main studios outside of Jonesboro, and have shown good cause for the requested waivers; and

It further appearing, that pursuant to section 309(b) of the Communications Act of 1934, as amended, George T. Hernreich and Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers, were advised by letters that their applications were mutually exclusive, of the necessity for a hearing and were advised of all objections to their applications and were given an opportunity to reply; and

It further appearing, that upon due consideration of the above-captioned applications, the amendments thereto, and the replies to the above letters, the Commission finds that pursuant to section 309(b) of the Communications Act of 1934, as amended, a hearing is necessary; that George T. Hernreich is legally and technically qualified to construct, own and operate the proposed television broadcast station; and that Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers, are legally, financially, technically and otherwise qualified to construct, own and operate the proposed television broadcast station.

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the above-captioned applications of George T. Hernreich and Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers, are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether facts and circumstances exist to justify a waiver of § 3.610 of the rules for either George T. Hernreich and/or Alan G. Patteson, Jr. and Mathew Carter Patteson, d/b as Patteson Brothers.

2. To determine whether George T. Hernreich is financially qualified to construct, own and operate the proposed television broadcast station.

3. To determine on a comparative basis which of the operations proposed in the above-captioned applications would better serve the public interest, convenience

and necessity in light of the significant differences between the applicants as to:

a. The background and experience of each having a bearing on its ability to own and operate the proposed television broadcast station.

b. The proposals of each with respect to the management and operation of the proposed television broadcast station.

c. The programming service proposed in each of the above-captioned applications.

4. To determine in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

It is further ordered, That the issue in the above-entitled proceeding may be enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by the addition of the following issue: To determine whether the funds available to the applicants will give reasonable assurance that the proposals set forth in the applications will be effectuated.

It is further ordered, That to avail themselves of the opportunity to be heard George T. Hernreich and Alan G. Patten, Jr., and Mathew Carter Patten, d/b as Patten Brothers, pursuant to § 1.140(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3284; Filed, Apr. 17, 1959;
8:51 a.m.]

[Docket No. 12824; FCC 59-301]

INTER-CITIES BROADCASTING CO.

Order Designating Application for Hearing on Stated Issues

In re application of Theodore A. Kolasa, Henry J. Kolasa, Mitchell A. Kolasa and Alphonse R. Deresz, d/b as Inter-Cities Broadcasting Company, Livonia, Michigan, Docket No. 12824, File No. BP-10991; (Req: 1220 kc, 1 kw, DA, Day); for construction permit for a new standard broadcast station.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 8th day of April 1959;

The Commission having under consideration the above-captioned and described application; and

It appearing that except as indicated by the issues specified below, the applicant is legally, financially, technically and otherwise qualified to operate the proposed station, but that the proposed

operation will involve mutual interference with Station WGAR, and that the interference received from Station WGAR will affect more than 10 percent of the normally protected primary service area in contravention of § 3.28(c) of the Commission rules; however, the applicant requested a waiver of § 3.28(c), on the ground that it will provide the first station in the city of Livonia; and

It further appearing, that, pursuant to section 309(b) of the Communications Act of 1934, as amended, the applicant and Station WGAR were advised, by letter dated January 27, 1959 of the aforementioned deficiencies, and that the Commission was unable to conclude that a grant of the application would be in the public interest; and

It further appearing, that the applicant filed a timely reply to the Commission's letter; and

It further appearing, that the licensee of WGAR, by letter dated March 10, 1959 requested a hearing on the instant application; and

It further appearing, that the Commission, after consideration of the above, is of the opinion that a hearing on the application is necessary;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operation and the availability of other primary service to such areas and populations.

2. To determine whether the proposed operation will cause objectionable interference to Station WGAR, Cleveland, Ohio, or any other existing standard broadcast station and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to areas and populations.

3. To determine whether interference received from Station WGAR would affect more than 10 percent of the population within the proposed normally protected primary area in contravention of the provisions of § 3.28(c) of the Commission rules; and, if so, whether circumstances exist which would warrant a waiver of said section.

4. To determine in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience, and necessity.

It is further ordered, That Peoples Broadcasting Corporation, licensee of Station WGAR is made a party to the proceeding.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present

evidence on the issues specified in the order.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3285; Filed, Apr. 17, 1959;
8:51 a.m.]

[Docket Nos. 12825, 12826; FCC 59-303]

BINDER-CARTER-DURHAM, INC. AND HERBERT T. GRAHAM

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Binder-Carter-Durham, Inc., Lansing, Michigan, Docket No. 12825, File No. BP-11565; (Req: 1010 kc, 250 w, DA-D). Herbert T. Graham, Lansing, Michigan, Docket No. 12826, File No. BP-12526; (Req: 1010 kc, 500 w, DA-D), for construction permits for new standard broadcast stations.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 8th day of April 1959;

The Commission having under consideration the above-captioned and described applications; and

It appearing, that except as indicated by the issues specified below, both applicants are legally, financially, technically and otherwise qualified to operate their proposals but that the proposed operations are mutually exclusive; and

It further appearing, that pursuant to section 309(b) of the Communications Act of 1934, as amended, subject applicants were advised by letter dated February 12, 1959, of aforementioned deficiency, and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing, that both applicants filed a timely reply to the Commission's letter; and

It further appearing, that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would be expected to receive primary service from the proposed operations and the availability of other primary service to such areas and populations.

2. To determine which of the operations proposed in the above-captioned applications would better serve the public interest in the light of the evidence adduced under the foregoing issue and the record made with respect to the signifi-

cant differences between the applicants as to:

(a) The background and experience of each of the above-named applicants to own and operate the proposed stations.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed stations.

(c) The programming service proposed in each of the above-mentioned applications.

3. To determine, in the light of the evidence adduced under the foregoing issues, which, if either, of the proposals should be granted.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3286; Filed, Apr. 17, 1959;
8:52 a.m.]

[Docket No. 12827; FCC 59-304]

ROLLINS BROADCASTING, INC.

Order Designating Application for Hearing on Stated Issues

In re application of Rollins Broadcasting, Inc., St. Louis, Missouri, Docket No. 12827, File No. BMP-8310; for additional time to construct changed nighttime facilities for Radio Station KATZ, St. Louis, Missouri.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 8th day of April 1959:

The Commission having under consideration the above-captioned application requesting additional time to construct changed nighttime facilities for Radio Station KATZ, St. Louis, Missouri; and

It appearing, that Radio Station KATZ is presently licensed to operate at St. Louis, Missouri, on 1600 kc, with a daytime power of 5 kilowatts and a nighttime power of 1 kilowatt, utilizing a directional antenna at night; and

It further appearing, that on March 27, 1957, a construction permit specifying a completion date of November 27, 1957,

was issued to Radio Station KATZ which, among other things, authorized an increase in nighttime power from 1 kilowatt to 5 kilowatts together with modification of the existing directional array; and

It further appearing, that extensions of authority for additional time to construct were granted on October 16, 1957, March 12, 1958, and August 29, 1959; and

It further appearing, that in support of the pending application for extension of time, the permittee indicated that it was reluctant to proceed with the authorized construction because of a possible rerouting of a highway in the vicinity of the transmitter site by the Illinois State Highway Department; and

It further appearing, that on February 3, 1959, the permittee was notified of the Commission's inability to find that said permittee had been diligent in proceeding with construction of the facilities originally authorized on March 27, 1957, or that the present uncertainty surrounding the transmitter site could be resolved within a reasonable period of time; and that the pending application would be dismissed unless a hearing were requested within twenty (20) days; and

It further appearing, that on February 10, 1959, Radio Station KATZ responded to the Commission's letter, of February 3, 1959, requesting that its application be designated for hearing; and

It further appearing, that upon consideration of the above-captioned application, the Commission's letter of February 3, 1959, and the permittee's reply thereto dated February 10, 1959, the Commission is unable to determine that a grant of said application would be in the public interest;

It is ordered, That the above-captioned application be designated for hearing in Washington, D.C., at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the permittee has been diligent in proceeding with the construction of the increased nighttime facilities first authorized on March 27, 1957 (BP-10652).

2. To determine whether the permittee has in fact been prevented from constructing in accordance with the outstanding authorization by the planned rerouting of a highway in the vicinity of the transmitter site, or only by uncertainty as to such rerouting, and whether such circumstances are causes beyond the permittee's control within the meaning of section 319(b) of the Communications Act of 1934, as amended, and § 1.323 of the Commission's rules.

3. To determine whether, on the basis of the evidence adduced with respect to the above issues, a grant of the above-captioned application would serve the public interest, convenience and necessity.

It is further ordered, That to avail itself of the opportunity to be heard, Rollins Broadcasting, Inc., pursuant to § 1.140 of the Commission's rules, in person or by an attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an

intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3287; Filed, Apr. 17, 1959;
8:52 a.m.]

[Docket Nos. 12829, 12830; FCC 59-309]

ELECTRONICS RESEARCH, INC., OF EVANSVILLE (WROA) AND LIONEL B. DE VILLE

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Electronics Research, Inc. of Evansville (WROA), Gulfport, Mississippi, Docket No. 12829, File No. BP-11807; Has: 1390 kc, 1 kw, Day, Req: 1390 kc, 5 kw, Day. Lionel B. De Ville, Franklin, Louisiana, Docket No. 12830, File No. BP-11908; Req: 1390 kc, 500 w, DA-D; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 8th day of April 1959:

The Commission having under consideration the above-captioned and described applications; and

It appearing, that except as indicated by the issues specified below, both applicants are legally, financially, technically and otherwise qualified to operate their proposals but that the simultaneous operation of both proposals would result in mutual interference and the proposed operation of Lionel B. De Ville would receive interference from the proposed operation of Station WROA which may affect more than 10 percent of the population within the normally protected primary service area of the former in contravention of § 3.28(c) of the Commission's rules; and that on the basis of the information before us, we are unable to conclude at this time whether circumstances exist which would warrant a waiver of said section; and

It further appearing, that pursuant to section 309(b) of the Communications Act of 1934, as amended, subject applicants were advised by letter dated February 25, 1959 of aforementioned deficiencies, and that the Commission was unable to conclude that a grant of either application would be in the public interest; and

It further appearing, that both applicants filed a timely reply to the Commission's letter; and

It further appearing, that the Commission, after consideration of the above, is of the opinion that a hearing is necessary;

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operation of Lionel B. DeVille, and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which would be expected to gain or lose primary service from the operation of Station WROA as proposed, and the availability of other primary service to such areas and populations.

3. To determine whether interference received from the proposed operation of WROA, Gulfport, Mississippi, would affect more than 10 percent of the population within the normally protected primary service area of the proposed operation of Lionel B. DeVille in contravention of the provisions of § 3.28(c) of the Commission's rules; and if so, whether circumstances exist which would warrant a waiver of said section.

4. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

5. To determine in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the instant applications should be granted.

It is further ordered. That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered. That the issues in the above-entitled proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3288; Filed, Apr. 17, 1959;
8:52 a.m.]

[Docket No. 12836]

MANUEL A. SANCHEZ, JR.

Order To Show Cause Assigning Matter for Public Hearing

In the matter of Manuel A. Sanchez, Jr., P.O. Box 330, Brownsville, Texas, Docket No. 12836; order to show cause why there should not be revoked the license for Radio Station WJ-5227 aboard the vessel "Betty and John O."

There being under consideration the matter of certain alleged violations of

the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation dated December 8, 1958, in which the licensee was informed that the subject station had been observed on November 20, 1958, in violation of the following rules:

Section 8.109(e): No evidence that the required frequency measurements had been made.

Section 8.367(a)(2): Copy of Part 8 of the Commission's rules not on board the vessel.

Section 8.368(a): No evidence that a radiotelephone log of communications had been maintained.

Section 8.368(a)(5): Official station log entries were not made indicating period during which a listening watch was maintained on the frequency 2182 kc in accordance with the requirements of § 8.223(b).

Warning letter dated December 8, 1958, calling attention to the fact that the radio station had been operated by a person or persons not holding a valid operator license or permit issued by the Commission in violation of section 318 of the Communications Act of 1934, as amended.

It further appearing, that, the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated February 26, 1959, and sent by Certified Mail, Return Receipt Requested (No. 1-21470), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing, that receipt of the Commission's letter was acknowledged by the signature of the licensee's agents, Mrs. Manuel A. Sanchez, Jr. and Juan H. Sanchez on March 2, 1959, to a Post Office Department return receipt; and

It further appearing, that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response thereto has been received; and

It further appearing, that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

It is ordered. This 13th day of April 1959, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in

respect thereto at a hearing¹ to be held at a time and place to be specified by subsequent order; and

It is further ordered. That the Secretary send a copy of this order by Certified Mail, Return Receipt Requested to the said licensee.

Released: April 15, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3289; Filed, Apr. 17, 1959;
8:52 a.m.]

[Docket No. 12443; FCC 59-292]

TELEVISION BROADCASTING DEVELOPMENT INQUIRY

Report and Order Terminating Proceeding

In the matter of inquiry into the impact of community antenna systems, TV translators, TV "satellite" stations, and TV "repeaters" on the orderly development of television broadcasting; Docket No. 12443.

Introduction. 1. In recent years, our attention has been directed on several occasions by various broadcasters to what they allege to be the substantial adverse economic impact upon existing or potential regular television broadcast stations, particularly those in small markets, of competition from the "auxiliary services" mentioned in the caption hereof—community antenna systems (CATV's), "satellite" stations, UHF translators and VHF repeaters or "boosters". Such allegations have been made in connection with our authorization of two translators to serve a community

¹Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

where an existing station of semi-satellite character was operating (Lewiston, Idaho), in connection with our consideration of translator applications for communities where there were pending applications for new stations, in connection with our consideration of applications for microwave common carrier facilities which would carry to CATV's the signals of distant stations, and in a general complaint by 13 broadcasters against 288 CATV's, asking us to exercise jurisdiction over the CATV's and regulate them, as common carriers under Title II of the Communications Act (Frontier Broadcasting Company v. Collier, 16 R.R. 1005 (April 1958), in which we held that we do not have jurisdiction over CATV's under Title II and that it is doubtful that they fall within the radio licensing provisions of Title III). On occasion the operators of one kind of auxiliary service have objected on the same general basis to Commission action which would create or benefit another such service. (CATV operator objecting to translator authorizations and translator licensee objecting to authorization of microwave facilities which would serve a CATV. See Palm Springs Translator Station, Inc., 15 R.R. 70 (April 1957) and Intermountain Microwave, 16 R.R. 733 (January 1958)).

2. In order to obtain material necessary to consider this problem on an overall rather than a piecemeal basis, in May 1958 we instituted the present proceeding (Notice of Inquiry released May 22, 1958, FCC 58-493). We listed some of the problems involved, and set forth 14 issues, involving factual, legal and policy considerations, upon which we particularly desired views and data. These issues are set forth as Appendix A¹ to the present Report and Order. In summary, they deal with (1) the extent of the operation of the auxiliary services, the extent to which they operate in communities where an existing or potential television station is located in the same community or nearby, and the number of persons receiving their only satisfactory service from such stations in the same or nearby communities (Issues 1 through 4); (2) the nature and extent of the alleged economic impact on existing and potential television stations from the auxiliary services (Issue 5); (3) legal questions concerning whether we have jurisdiction over CATV's, whether we can validly deny common carrier microwave facilities on the ground of impact upon local or nearby television stations from the CATV's, which such systems would serve, whether economic injury to a local station can be valid justification for denying authorization to competing auxiliary services, and whether we can justifiably distinguish in this connection between communities which do and those which do not have regular local stations (Issues 11, 12, 13 and 8); (4) if a choice is required, is it more in the public interest to maintain the only television service to persons in rural areas, or to permit multiple services to a smaller town population (via auxiliary services) at the cost of, or at serious risk to, the continuation of the only service provided by

the local regular station to the rural areas (Issue 9); (5) under what circumstances, and in what respects, would restrictions or limitations on the operation of the auxiliary services be in the public interest (Issues 7 and 10); (6) what legislative recommendations, if any, should we make to Congress concerning our jurisdiction over CATV's (Issue 14); (7) what areas and populations in the Nation still receive no television service, and what we should do to encourage the provision of service to them (Issue 6).

3. Shortly after we instituted this inquiry there was considerable testimony on this subject before the Senate Interstate and Foreign Commerce Committee, including the testimony by many of the same broadcasters and other parties who filed comments in the present proceeding (May 27, 28 and 29, and June 24, 1958). A complete list of the parties filing herein, and witnesses in the Committee Hearings, is attached hereto as Appendix B.² Some of those filing comments have referred to their testimony in the Committee Hearings. Because this testimony is often pertinent to the present inquiry, we have considered all of it—both the portions specifically referred to by the parties, and the remainder thereof—in our deliberations in this matter.³ We have also considered various pleadings in other proceedings to which the commenting parties have called our attention. Also, to the extent indicated by references below, we have taken into account pertinent data contained in industry publications (Standard Rate & Data, and TV Factbook) and elsewhere in order to supplement the sometimes incomplete and conflicting data in the record.

4. Before proceeding to a detailed analysis of the situation, we observe preliminarily that the "impact" as described by the broadcasters consists essentially in the division of what is generally a basically small viewing audience, as a result of the competition for that audience from the auxiliary services. It appears to be a problem arising only in small or fairly small markets, largely, though not entirely, in the West. The comments herein, plus testimony concerning one additional situation, presented in the Committee Hearings, cover approximately 20 cities, not all of them presenting serious "impact" situations. The "impact" problem, insofar as it exists, is thus small, not only in relation to the overall extent of television service in the United States but even compared to the overall extent of the auxiliary services. This does not mean, however, that the problem may not be serious in a relatively small number of places, or that it does not merit our consideration where it exists. We note also that the number of potential impact situations is increasing, as shown by a number of applications for microwave facilities now pending in which the signals of dis-

tant stations would be delivered to CATV's in communities having local stations. Furthermore, we must consider not only the impact on existing stations but whatever deterrent may exist to the advent of new stations.

5. If this impact exists in the extent claimed, so as actually to threaten the continued existence of certain small-market stations, there is presented a problem of conflicting interests and objectives. On the one hand are the interest of the general public of the areas involved in the preservation of a local television outlet, with the attendant advantages which a community gains from having a local means of self-expression, and (in some cases but not in all) the preservation of the only television service to some of the public, such as rural residents who cannot be served by CATV. On the other hand is the interest of another group, such as city residents who want and can afford to pay for CATV service, in obtaining multiple television service, including complete "live" network programming which the local station is sometimes not in a position to provide. As discussed below, the relative size of these two groups varies from situation to situation. The issues in the present proceeding involve the general questions of (1) whether the impact does in fact exist to the extent asserted here; (2) if so, whether we should take steps to deal with the situation and resolve these conflicting interests; and (3) if we should take action, what steps we have authority to take and can appropriately consider, or should seek authority to employ.

6. As a preliminary matter we should also comment on the position of satellite stations. We have included these among the auxiliary services whose impact is under consideration; but we also note that in a number of instances such operations—which we have authorized just as a regular station except that they are not required to present locally-originated programs or maintain studios—have fulfilled our hope that in time such stations would develop at least to a certain extent into operations serving the local needs of their communities, by the provision of at least some local programming.

Background. 7. The overall extent of television and the auxiliary services. Television service is now widespread throughout the United States, with some 509 commercial and 42 non-commercial educational stations in operation, an estimated 44,000,000 television families and 50,000,000 sets, and television service available to more than 95 percent of the nation's population.

8. Because of the high cost of television broadcasting and other economic factors too familiar to need repetition here, the development of television service in the smaller communities and more sparsely settled areas of the country has been slow. With respect to the existence of a local outlet in every community of some size—a consideration to which the Commission attaches considerable importance, both in radio and television—there are now operating television stations in about 325 communities in 286

¹ Filed as part of the original document.

² We have also considered the views expressed in the Staff Report prepared for that Committee by its Special Counsel (the "Cox Report") which has been referred to us for comment.

separate markets, only about 25 percent of the more than 1,250 communities to which we have assigned channels in our Table of Assignments, and a smaller fraction of the approximately 1,700 communities which have locally assigned radio stations. However, especially in recent years, there has been considerable development of television stations in the smaller markets, so that at present there are stations operating in some 145 markets having no community of more than 50,000 population (1950 census). During 1957 there went into operation two regular (non-satellite) stations located in communities having populations of only about 5,000 (Glendive, Montana and Riverton, Wyoming, with 1950 populations of 5,254 and 4,142 respectively). Therefore it appears that (leaving aside the impact from the auxiliary services which is under consideration here) the near future may see the development of additional stations in small markets, especially where, as in the two cases mentioned, there is no nearby station.

9. The demand for television service in the "economic fringe areas"—areas regarded as too small in population to support a local station and too remote in distance or isolated by terrain to receive regular off-the-air reception—has led to the development of four forms of auxiliary service to bring television to these areas. Two of these—satellites and translators—have developed under Commission rules and policies, beginning in 1954 and 1956 respectively. The situation specifically affecting VHF repeaters, which are the subject of separate proceedings, is discussed in paragraphs 18, 19, and 20 hereof. Up to now we have disclaimed jurisdiction over CATV systems. It is estimated—and the estimate appears conservative—that more than 2,000,000 persons receive television via one or another of these forms of operation. It is estimated that the bulk of this service, 75 percent or more, is provided by CATV's; however, such an estimate is subject to the qualification that the total number of unauthorized VHF boosters, and population served thereby, is not known with any degree of accuracy. To a substantial extent—though of course by no means entirely—the auxiliary services provide service in what would otherwise be "white areas" where regular direct reception is not available. It is generally agreed that the auxiliary services have performed a desired service in bringing television to populations who would otherwise not have it.

10. CATV's. A community antenna system (CATV) consists of a receiving antenna located on a high elevation so as to receive signals to best advantage, and wire lines whereby the signals received are transmitted to the receiving sets of the subscribers in the community, together with necessary amplifying equipment and sometimes equipment to "convert" the signal from the channel on which it is received to another channel at which it appears on the subscriber's set. Typically the CATV uses the lowest VHF channels on the subscriber's set; this necessitates conversion of the signals of any higher-VHF or UHF stations

which are carried on the system. The systems, which are generally business enterprises conducted for profit, obtain revenue by charging subscribers a monthly fee, usually in the order of \$3.50 to \$6.00, and generally in earlier years, and in many cases still, charge an initial installation fee usually ranging from \$100 to \$175 (in recent years some systems have given subscribers an option of a higher monthly charge, such as \$9.00, and no installation charge). The systems range in number of channels from one to seven (and in a very few instances more than seven); many of them have expanded their facilities in recent years, and a substantial majority, at least three-quarters of the approximately 550 identified systems, now have at least three channels. Typically, each station occupies one channel on the system. In some instances, however, it appears that some kind of switching arrangement is used whereby either the system or the microwave common-carrier facility supplying it presents a selection of programs from more than one station for each channel. Some parties assert that CATV's at times have originated program material or advertising, or deleted program material or advertising run on the station whose signal is carried; but no specific instances are cited, and these practices (which are disapproved by the national CATV association) appear to be isolated if they exist at all, with respect to the channels on which TV stations' signals are carried. However, a number of CATV's have additional channels on which no television stations' signals are presented; on these, sometimes "closed-circuit" telecasts of programs or advertising are presented, while in other cases the extra channel is used for FM music.² In number of subscribers, the systems range from 20 or less to about 10,750 (Cumberland, Maryland); it appears that fewer than 10 percent of them have as many as 2,500 subscribers, and the average system has between 500 and 1,000. With a few exceptions, there is only one system in a community; in a few instances one system serves two or more nearby towns. There is continuing expansion in number of systems as shown by a number of applications pending before us for microwave common-carrier facilities which would serve CATV's in new communities. The number of subscribers per system is also continuing to increase.

In particular, in places such as Livingston, Montana, where the CATV is connected ownership-wise with a local AM station, programs have been originated in some quantity, the AM studio, with a camera installation, being used for the originations. Advertising slides are also presented. In other cases (e.g. Ithaca, N.Y.) CATV's have made a channel available to educational institutions, for use in closed-circuit programming for schools or for subscribers generally.

11. CATV's developed originally chiefly in places where satisfactory direct tele-

vision reception was not possible, either because of distance from a station or (as in the rugged portions of the East) where terrain is an adverse factor. However, they have continued to develop and expand, even where direct reception has become available, as a means of providing their subscribers with one, or usually more, additional services. There are approximately 550 nationally known and identified systems, in all but a few States of the Union, and an estimated 100 to 150 additional systems, mostly quite small. It is estimated, probably conservatively, that there are a total of 500,000 subscribers representing a population of somewhere between 1,500,000 and 2,000,000. Pennsylvania leads both in number of systems and number of subscribers, having about 85 known systems serving more than 100,000 sets; Oregon (next in number of systems), California, New York, Texas, Washington and West Virginia have substantial numbers. The earliest system (non-commercial) was constructed in Astoria, Oregon, in 1949; the first commercial system was started in Lansford, Pennsylvania, in 1950. In more than 50 communities there are both an existing or planned CATV system and one or more operating or authorized television stations; the list of those situations pertinent here is included in Appendix C hereto,³ together with pertinent data as to these situations. Of the known systems and subscribers located in other places—about 500 systems—it appears that slightly fewer than half of the systems, with more than half of the subscribers, are in localities within 50 miles of an operating television station (of course, however, because of terrain factors or the station's power some of these localities do not have satisfactory off-air service available). The Commission does not have any general knowledge concerning the practices of CATV's with respect to obtaining or attempting to obtain the consent of the stations whose signals they transmit; from the situations covered in the present proceedings it appears that usually CATV's do not attempt to obtain such consent, and in some cases carry the programs of stations which have expressly forbidden them to do so.

12. The CATV's carry on their systems stations located both nearby and at a distance. The presentation of the programs of distant stations is in many cases made possible by use of microwave common-carrier facilities, which pick up the signals of the station at a point relatively near its location, and relay them to the distant CATV's receiving antenna. There are now approximately 50 such microwave systems in operation, serving CATV's in roughly 75 communities. In some instances this kind of operation involves a relatively short distance (100 miles or less) between the city wherein the station is located and the CATV's community; the microwave facilities in these cases are used to improve the quality of the signal distributed and save line expense. However, in most cases where microwave transmission is involved the CATV's community is well over 100 miles

² It appears that in one or two instances CATV operators have tried, unsuccessfully, to work out arrangements for selling advertising on the television channels of their system.

³ Filed as part of the original document.

from the city where the station is located; in two cases (Spokane, Washington to Havre, Montana, and Denver, Colorado, to Rapid City, South Dakota) the distances from city of station location to CATV community are 364 and 312 miles, respectively. Of course, a CATV system has to be of some size to pay the cost of obtaining signals in this manner. It is this presentation by CATV's of signals from very distant stations made available by microwave which is a particular subject of objection by some broadcasters commenting herein.

13. In 1956, in order to make possible the provision of television service to small, isolated communities and sparsely settled areas beyond the range of existing stations, the Commission began the authorization of UHF "translator" stations, relatively inexpensive installations which pick up television signals and rebroadcast them on channels in the higher portion of the UHF band. Initially they were permitted to operate with a maximum of 10 watts power; recently in order to increase the opportunity for reception of this service, we amended our Rules so as to permit operation with power up to 100 watts. For technical reasons translators are not permitted to originate any broadcast material themselves or to rebroadcast any signal except that of a broadcast station or another translator. Therefore they do not, in their own operations, generate any revenue. They are usually operated by non-profit corporations or associations, and built by subscription, or operated by public bodies; in a few instances (e.g., southern Oregon and in the Binghamton, New York, area) television licensees have constructed translators to fill "holes" in the coverage areas of their stations. Like broadcast stations generally, translators are required to have the consent of the stations whose signals they rebroadcast. Each individual translator station can, of course, rebroadcast on only one channel, and therefore typically each translator rebroadcasts the signals of only one television station; in order to provide their communities and areas with a choice of service, translators are often constructed and operated in groups of two or three, or sometimes even four or five, so as to provide the service of a number of stations. Usually, the station whose signal is rebroadcast is located 80 miles or more from the community served by the translator; in some cases (e.g., Albuquerque to points in Colorado) the station presented is 195 miles or more from the community served.

14. More than 200 translators, serving some 120 communities or groups of nearby communities, have now been authorized, in all of the states of the West and also Texas, Oklahoma, Iowa, Minnesota, Pennsylvania, Maryland, New York, and the Connecticut valley area of New England.

15. In 1958 the Commission conducted an inquiry of its translator licensees as to the extent of service rendered by their installations; the replies received from licensees representing about two-thirds of the translators then operating indicated service to a total of about 124,000 sets. Individual estimates ranged from

as low as 150 receivers (a translator in California) to 40,000 or 50,000 receivers (a group of Pennsylvania translators), with the majority ranging between 500 and 2,500 receivers. To a greater extent than CATV's, translators serve areas and populations, which, because of distance or terrain, cannot receive acceptable television service otherwise. However, in order to provide additional television service we have authorized translators in two communities (Lewiston, Idaho, and Roseburg, Oregon) where an existing television station (in both cases a satellite or semi-satellite) was in operation.

16. As of 1958 the average cost of transmitter construction was in the vicinity of \$6,000 per channel (unit), with annual operating cost from \$500 to \$1,000. In the case of a three-channel system built by subscription (as the majority are), and assuming about 1,000 subscribers, the viewers would thus pay some \$19 for the construction of the system and about \$1 per year to maintain and operate it. For those viewers who have VHF-only sets, the reception of translator service of course requires also the expenditure of money for adaptation of their sets for UHF reception, a sum usually in the range of \$30 or \$40. Where such a cost item is involved, the total initial cost of translator service to the subscriber would average about \$50.

17. "Satellite" stations. Beginning in 1954, in an effort to provide television service in areas lacking a local station, particularly large and thinly-settled areas, we have authorized television stations which would operate on a "satellite" basis. Such stations are authorized just as regular stations—meeting the same minimum standards of antenna height and power and operating on channels regularly assigned to their communities—but are not required to meet the Commission's rules requiring the maintenance of studios and the origination of live programming. By this policy broadcasters are enabled to undertake television operations without having to bear the great costs of studios and staff for local programming. About 25 such stations have been authorized. Usually, though not always, satellite stations are owned by licensees of regular stations in the same general area. In many instances (such as Hayes Center and Hay Springs, Nebraska, covered in the present record) such stations have brought the only television service to extensive areas. Moreover, it appears that in many instances (for example, Helena, Montana, Scottsbluff, Nebraska and Lewiston, Idaho, mentioned in this proceeding) stations originally authorized as satellites have developed with time into operations serving as local outlets for their communities, at least to a certain extent, in that they have built studios and originate a certain amount of live programming and local advertising.

18. VHF "boosters" or "repeaters". VHF "boosters" or "repeaters" (the former term is used hereinafter) have never been authorized by us, but have developed, chiefly in the West, as a means of bringing television service to places otherwise without it. They are low-power installations, retransmitting on

VHF channels the signals of television stations; at first the signals were usually retransmitted on the same channel as that of the station originating them, but because of "ghosting" interference it has recently become more common to convert the signals to other VHF channels for retransmission.

19. There is no way of even approximately ascertaining the number of these "boosters"; it is estimated by some to be 1,000 or more. The Commission has information as to the existence of nearly 300 such operations; about 75 of these are in Montana, with smaller numbers in each of the Western States, and one each in Minnesota and Iowa. There is no accurate information as to the overall population served by these installations; the Montana broadcasters in their comments herein list some 66 boosters in that State and estimate that they serve a total of about 75,000 persons. In cities in the West, there are both an operating or authorized local station (regular or satellite) and a booster presenting the signal of an outside station—Lewiston, Idaho, Butte, Montana, Williston, N. Dakota, Ephrata, Washington, and Riverton and Sheridan, Wyoming. It appears that in some cases boosters present the signals of stations located 100 miles or more away.

20. On the basis of prolonged study of the advantages and disadvantages of authorizing repeater services in the VHF band, the Commission has concluded that, subject to necessary amendment of the Communications Act of 1934, it will be in the public interest to authorize the operation of VHF repeaters within limits which will afford due protection against interference to other users of the radio spectrum including aerial navigation services. With this end in view the Commission is preparing, for prompt submission to Congress, recommendations for the appropriate amendment of sections 318 and 319 of the Act to clarify existing law concerning operator requirements and to eliminate the present prohibition against the licensing of broadcast facilities constructed without prior Commission authorization. Further steps toward the licensing of VHF repeater operations will have to be deferred until Congress acts on the proposed legislative amendments.

II. *The views of the parties, generally.*
21. It is the broadcasters and their groups who urge that a substantial and serious problem is created by the adverse economic impact of the auxiliary services, and that the Commission should recognize this and take steps to alleviate the situation. Some 40 comments were filed by or on behalf of licensees and their associations; of these, all but five*

* The views of the parties on specific points are set forth where these points are discussed below.

* The five broadcasters referred to have generally no comment on the general subject involved here. Four of them urge the benefits gained from satellite operation and ask the Commission not to take any action which would limit satellite authorizations. The fifth, the licensee of a television station in a large Western city, expressed only a view favoring the licensing of VHF repeaters on an appropriate basis.

take the same general position in favor of restrictions upon the auxiliary services. It is urged by many broadcasters that unless the Commission takes action in this area, numerous small-market stations will be forced off the air (or, in some cases, that the character of their service will be impaired), and thereby not only will the communities involved lose the benefits of a local outlet, but extensive populations in and around such communities—notably the rural populations which cannot expect to be served by CATV's—will lose service and often their only service, a result inconsistent not only with the Commission's expressed position as to the importance of local outlets but also with our "first priority" objective of providing at least one television service to all. Such bad results, it is urged, clearly outweigh the benefits gained from providing a choice of service, via CATV, translators, etc., to a smaller number of persons, such as city dwellers who can get and are willing to pay for CATV service. It should be noted that the main thrust of the argument of many of the broadcasters—and the only specific complaint except in a few cases—is against CATV's.

22. Some of the broadcasters assert that we have jurisdiction to regulate CATV's; most of them believe that if we are doubtful on this score we should seek from Congress legislation giving us such jurisdiction in order to act to meet the problem. It is also urged by a number that we should take into account, in authorizing microwave common-carrier facilities which will serve CATV's, the economic injury—and resulting public detriment—which the CATV's may cause by presenting in the local market "distant metropolitan" stations' signals thus made available. Nearly all of the broadcasters, not only small-market stations but large metropolitan operators, urge that CATV's, or at least the microwave common-carriers which supply them and which are clearly subject to Commission regulation, be required to show consent by the station whose signal is re-transmitted. It is suggested by some that the originating station might be required to obtain the approval of the Commission before giving such consent, and thereby the Commission would be in a position to prevent the re-transmission of a station's signal outside of its normal service area where the result would be serious economic injury to the local station and consequent detriment to the public. It is also urged that we should follow a similar policy in relation to the other auxiliary services over which we have or may assume jurisdiction—not authorizing such services where economic injury to the local regular station, and resulting public detriment, would ensue.

23. The National Community Television Association, Inc. (NCTA, the national CATV association) and other pro-CATV parties^{*} maintain that generally there is no real impact problem, that a

local station and a CATV can co-exist, and that the present stir is being made by a few broadcasters wishing to maintain their monopoly positions. It is urged that free competition should prevail here as it does generally in the broadcasting industry, and that economic injury should not be considered as a ground for denial of authorization for an auxiliary service for the same reasons we have refused to consider it in ordinary AM or television situations where an additional station seeks to come into a market. It is asserted that any restriction on CATV's, or restriction on common carrier authorization because of probable economic injury to a local station, would be arbitrary and illegal. These parties' position is that we do not have jurisdiction over CATV's; NCTA takes the position that it is not unalterably opposed to any regulation thereof, and is willing to work on proposed legislation if it is understood that CATV's are entitled to the protection and privileges, as well as subject to the responsibilities and restrictions, of a regulated industry. However, NCTA asserts that it is by no means established that free competition is not the best form of regulation in this area.

24. Comments were also filed by two state VHF booster groups (Colorado and Washington) and five individual booster "associations". All of them urge that VHF boosters be licensed, as quickly as possible. With respect to the problem of adverse economic impact on a local station, most of these comments assert that this problem is minimal or non-existent in their particular areas; some of them state that there should be no restrictions on this basis applied to the auxiliary services because their very existence shows that adequate direct service is not being provided. The Colorado state association, however, takes the position that this problem should be taken into account.

III. *The operation and extent of the impact.* 25. Many of the complaining broadcasters describe the ways in which the adverse economic impact of the auxiliary services takes effect. A composite picture as they present it (not all of the broadcasters make all of the following points) is as follows: Basically, the broadcasters' claim is that the presence of additional signals via the auxiliary services splits the already small audience which these stations have (being all relatively small-market stations), and thereby makes the local station a less attractive "buy" for advertisers who as a result tend not to buy it. The additional signals also cut down the number of sets which the station can always deliver because they have no other signal available, which, it is stated, are a prime consideration to advertisers. With respect to national advertisers, both spot and program, it is said that these advertisers become aware that they are getting coverage of the small market when they buy the larger "metropolitan" station which is put into the small-market via CATV or translator and therefore see no reason to buy the small-market station in addition. In this connection, it is claimed that national advertisers (and

local ones also) are not interested in the wide rural coverage which the station but not the CATV can deliver; they think in terms of particular city markets, and when they have coverage of the city, or much of it, as via a large cable system, they regard that as sufficient. With respect to local advertisers, CATV's or translators afford no additional competition for the local advertising dollar. But, it is asserted, because of the diversion, the local station becomes a less attractive medium in comparison to other media in the area. It is asserted that the local business people and their families and neighbors are usually among the first CATV subscribers; they watch the distant station's programs on the cable themselves and therefore assume that everybody else is doing the same, so that the local station's value to them as an advertising medium seems small.

26. In this connection the broadcasters point out, which is obviously true, that the existence of a multi-channel CATV or translator group is not merely the equivalent of adding one additional signal in the market, as would be the advent of another station, but involves adding whatever number of stations are presented over the auxiliary service. Thus, instead of the small audience being split two ways, as it would be if a competing local station were involved, it is split four or five ways. Therefore, the small market may often have more signals available than the larger "metropolitan" city from which signals are distributed via the auxiliary service.

27. Two further points are urged by some, though by no means all, of the complaining broadcasters. First, it is stated that since the small markets in question are optional markets, national program sponsors tend not to order them for network shows to the extent they order the "metropolitan" stations carried on the CATV or translator, and therefore the latter, having full lineups of the popular shows which the local station is unable to present, are more attractive to the local viewers.⁷ Accordingly, people tend to watch the CATV or translator—imported distant stations and not the local station, and the latter becomes even less of a desirable advertising buy, both nationally and locally, with respect to both programs and adjacencies for spot advertising. Therefore, the station tends to get even fewer desirable

^{*}The pro-CATV parties include the NCTA, four individual CATV operators, some 20 microwave common carrier licensees or permittees, and Jerrold Electronics Corporation, a major supplier of CATV system equipment.

⁷This point was particularly stressed by the Clarksburg station, which used the term "program starvation". Not all of the broadcasters make this argument. The operator of the Missoula station, for example, testified in the Committee Hearings that his station carried (in 1958) 18 of the top 20 shows. To a certain extent this situation is corrected by the plans put into effect in recent years by some networks, under which advertisers are encouraged to order small-market stations, or which enable the station to carry the program, without payment, even where not ordered therefor. For example, the Tyler station listed 17 network programs which the station carried without sponsorship. Of course it got no revenue therefrom, but it had the benefit of the programs for selling "adjacencies", and it saved the cost of providing other program material for these time-segments.

programs and less audience, and even less advertising, etc. The second point is that where the local station is ordered for network programs, it may not be interconnected for all, or any, networks, and therefore the programs must be presented by kinescope or film, delayed. If the distant station presented via the auxiliary services is able to present the program to a substantial portion of the market on a "live" basis, the value of the program when presented delayed by the local station is greatly lessened. Similarly, with feature or syndicated film, if such film is run first on the larger-market station and presented in the local market via CATV or translator, its value when run later by the local station, in effect on a "second-run" basis, is obviously small; and money invested therein is largely wasted.

28. There are also complaints against the effect of CATV's on the physical availability of the local station's signal to CATV subscribers, which are described below and are the basis for the request made by some broadcasters that the CATV be required to carry the local station if requested.

The extent of the impact. 29. We now turn to a consideration of what adverse effect upon the stations involved the above-described economic processes have had, or are likely to have. There is specific complaint about substantial present or imminent adverse impact in 19 cities—most of them in the West—Idaho Falls, Lewiston, and Twin Falls, Idaho; Butte, Helena, Kalispell and Missoula, Montana; Klamath Falls, Medford and Roseburg, Oregon; Cheyenne, Casper and Riverton, Wyoming; Rapid City, South Dakota; Scottsbluff, Nebraska; Laredo and Tyler, Texas; Florence, Ala., and Clarksburg, West Virginia. One additional similar situation was described in the Committee Hearings but the broadcaster involved did not comment in the present proceeding—Fairmont, West Virginia (a UHF station off the air for some time). In addition, broadcasters refer herein to adverse impact in three other cities—Eugene, Oregon; Burlington, Vermont, and Bluefield, West Virginia—but the impact in these cases is not described as, and does not appear to be, presently or imminently serious. Except for Casper and Rapid City, all of the cities involved are (or were) one-station communities; except for Fairmont and Florence, all of the stations are VHF.

30. It is obvious from the contentions of the parties and the data available that there are varying degrees of impact. It is also apparent, as shown below, that there are other factors which affect the economic situation of a particular station—perhaps most significant being the size of the station's market and the UHF-VHF problem where it exists. It is appropriate to examine in detail those situations in which stations have gone off the air and auxiliary-service impact is said to have been a factor.

31. Of some 96 stations which have gone off the air since 1952 (89 UHF and 7 VHF) in only three cases has the existence of an auxiliary service in the station's community or coverage area—

in all three cases a CATV—been mentioned as a factor in the demise. We have no reason to believe that there are any other cases in which the presence of an auxiliary service has been a substantial factor.⁸ The three situations have occurred in Helena and Kalispell, Montana, and Fairmont, West Virginia. In Helena, the station, KXLJ-TV, operated from January 1958, until late January 1959; a CATV has operated in the city since 1955, carrying the signals of Butte, Great Falls, and Missoula stations until February 1959, when microwave service became available and the signals of the three Spokane stations were substituted for the three Montana stations on the system. During 1958 the Helena broadcaster called the microwave problem to the Commission's attention; it is the availability via CATV of the signals of the distant Spokane stations, with their relatively large amounts of network programming, which is alleged to have finished off KXLJ-TV. The CATV has about 2,200 subscribers.⁹ Helena is a city of about 22,000, and according to an exhibit filed in this proceeding the station's coverage area included 30,000 people. The county in which Helena is located is estimated to have 9,500 households and 4,450 TV households; according to the Helena broadcaster, his station served about 7,000 homes.¹⁰

32. There are other factors to be considered in this situation. The Helena station operated basically as a satellite of Station KXLF-TV, Butte, with which it was under common ownership, and was always sold nationally in combination therewith. However, it had a studio and was producing some local programming when it went off the air. With a visual ERP of 0.973 kw. and an antenna height above average terrain of minus 370 ft., it was a very limited operation technically.¹¹ We have no data as to

⁸The operator of the Clarksburg station was formerly the operator of a UHF station in Atlantic City, now off the air for some years. He mentioned the Atlantic City situation briefly in testifying before the Committee, noting that there was a CATV in the area; but he did not definitely ascribe the station's failure to that, and it is obvious from the small size of the CATV (then 400 subscribers) that this was not a substantial factor.

⁹In some instances, although not in this particular case, there is considerable discrepancy between the figures given by various parties as to the number of subscribers or people served by certain CATV's. Accordingly, in the interest of uniformity and in order to bring our data up to date, unless otherwise indicated we have used herein the number of subscribers as shown by the TV Factbook (Fall-Winter, 1958), for the systems listed therein.

¹⁰Unless indicated otherwise, city and county populations given herein are taken from January 1959 Standard Rate & Data Service; estimates of numbers of homes and TV homes are those contained in TV Factbook (Fall-Winter, 1958).

¹¹It may be assumed that important factors in KXLJ-TV's economic situation were: (1) The number of sets it could deliver exclusively because they had no other service available; and (2) the number of sets it could deliver which did not receive service from the parent Butte station, which presented for the market the same program—

how much revenue the station took in (it appears to have sold at least some local advertising) or what its expenses were. Unquestionably there was an impact, but whether the station would have continued in operation, and have been profitable or unprofitable, in the absence of the CATV system, can only be conjecture.

33. *Kalispell.* The Kalispell station (formerly KGEZ-TV, now KULR), which began operation in July 1957 (beginning as a satellite of a Spokane station but soon presenting a half-hour or more of live programming each day), went off the air in April 1958, asserting as the reason therefor the losses caused by what it described as the Commission's policies favoring CATV's. However, in October 1958 it went back on the air and is presently in operation. The City of Kalispell itself had a 1950 Census population of 9,737; the nearby city of Whitefish, with a Census population of 3,268, is the only other city within the station's coverage area having a Census population of more than 2,500. The station claims a set circulation of 14,000. Its coverage contour (as shown on the map mentioned above) includes substantial portions of two counties (Flathead and Lake); the A. C. Nielsen Company survey data which we have examined in this proceeding also credits it with some viewers in a third county (Lincoln). The estimated total homes and total TV homes in these three counties are 17,700 and 10,250, respectively. There have been CATV's in Kalispell and Whitefish since before the station went on the air, carrying the signals of the three Spokane stations;¹² the Kalispell CATV had about 2,000 subscribers when the station went off the air and has the same now and the Whitefish CATV had about 800 subscribers at that time and now has 900. There are three other CATV's in smaller communities in the three counties (totaling 250 subscribers), as well as two translators (at Libby, carrying Spokane stations) and two boosters (at Troy and Polson). It should also be pointed out that by no means all of the sets within the station's service area are sets receiving no other service and therefore to be credited ex-

ming. From such information as is available, it appears that in both of these respects KXLJ-TV was severely limited. A map submitted in Docket 12443 by the Montana broadcasters shows the coverage area of the Butte station as completely encompassing that of KXLJ-TV. Terrain factors may have prevented adequate reception of KXLJ-TV in and around Helena, but the only conclusion that can be drawn is that the additional coverage supplied by KXLJ-TV was small. The same map shows the coverage area of Station KFBB-TV, Great Falls, as including a large part of Lewis and Clark County, in which Helena is located. Nielsen data based on a survey in the spring of 1958 shows that in this county the Butte, Great Falls, and Missoula stations all had substantial viewing audience, with monthly coverage ranging from 45 percent to 67 percent of the county's TV homes. These figures might, of course, reflect to some extent coverage via CATV mentioned above.

¹²The Kalispell CATV system has refused to carry the local station; the Whitefish system carries it. The Kalispell system also carries the Missoula station.

clusively to KULR, even aside from the auxiliary services. The coverage map mentioned above, and accompanying figures, show that KMSO-TV, the Missoula station, has coverage of all of Lake County and more than half of Flathead County; part of Lincoln County, to the west, is shown to be within the service area of Station KXLY-TV, Spokane.¹² The pro-CATV parties in this proceeding and the Committee Hearings introduced a letter in which the small size of this market was pointed out to a prospective Whitefish applicant by an official of NBC in 1956, the official stating that the total population of 50,000 or 60,000 is only about half of the size regarded as the minimum for economic support of a station, and expressing doubt that any station would be successful. Another factor in the situation was the fact that the station was owned by majority and minority interests, the minority (30%) being the Kalispell CATV system. Relations between the interests were not always amicable, and it proved impossible for them to agree on a basis for getting additional capital to carry on, which would otherwise have been available.¹⁴

34. Fairmont, Station WJPB-TV, Fairmont, West Virginia (UHF), operated from March 1954 until February 1955, and again for some months during 1955. Fairmont is a city of about 32,000 people, located about 66 miles from Pittsburgh, 87 miles from Johnstown and 51 miles from Wheeling, in all of which markets larger VHF stations were in operation.¹⁵ By the time the station went on the air, CATV's in Fairmont and nearby Clarksburg had a total of about 4,500 subscribers, out of 15,000 TV homes in the two cities, bringing in the signals from the three larger cities mentioned. It was stated by this broadcaster that no other acceptable signal was available to the more than 30,000 homes in the area; but the CATV interests contend that in fact 3,000 or 4,000 homes had antennas which could get these outside signals. While the broadcaster testified that his situation was harmed by the CATV, he was much more emphatic in asserting that if the system had carried WJPB-TV's signal on its cable the station would have been successful and re-

mained in operation.¹⁶ Whether UHF conversion was a major problem is not clear; the broadcaster stated that he believed over 25,000 of the sets in the area had been adapted for UHF.

35. We have dealt in some detail with these three situations because they are concrete cases in which auxiliary services are asserted to have been a factor in the blackout of the station. We also observe a relatively small number of specific occurrences cited or described by various broadcasters as examples of the operation of the impact as outlined above. These include three specific instances in which advertisers cancelled or refused to buy time on the station, stating that their action was because of CATV coverage in the market (a local advertiser in Missoula, an advertiser in Pocatello refusing to buy time on the Idaho Falls station, and one national advertiser declining to order Casper), reference by the Florence (UHF) station to statements by a large advertising agency refusing to order the station because of coverage of the market from other stations via CATV; a letter to the Tyler station from its national spot representative stating that the station is "severely handicapped" in getting national advertising because of 42% coverage of its metropolitan homes by the CATV system (and stating that numerous advertisers had refused therefore to buy); and a series of situations described by the Montana broadcasters—such as inability of the Butte station to get CBS programs because a booster in Butte broadcast the signals of the Missoula station, and use of the Billings station instead of the Riverton, Wyoming, station by a national advertiser because CATV supplied coverage made Billings a better buy for Wyoming.¹⁷

36. Station KMSO-TV, Missoula, supplied figures as to its net losses for 1955, 1956 and 1957, showing a decrease in losses from about \$51,000 in 1955 (the first full year of operation) to about \$10,000 in 1956, and an increase in loss in 1957 to about \$55,000, allegedly because of the impact of the CATV which went into operation in November 1956.

¹² WJPB-TV was carried on the system for two days after it went on the air, and then taken off; the CATV operators state that the latter action was because of a great public outcry seeking restoration of the previous Pittsburgh-Wheeling-Johnstown lineup. It is stated that the operators polled their audience three months later to inquire which stations they wanted carried (giving them four choices, three including WJPB-TV); of the 60% who replied, 83% preferred the Pittsburgh-Johnstown-Wheeling lineup without WJPB-TV. While the WJPB-TV broadcaster expressed disbelief of this assertion, it seems reasonable to suppose that the CATV would carry those channels which its subscribers wanted.

¹⁷ We also note CBS' action in cutting the Tyler station's network rate from \$225 to \$50, an action in which the CATV coverage was one—but we cannot say the only—factor, since there are major markets on both sides of the station's service area. The Tyler station did not accept CBS orders on that basis, and as a result cancelled several CBS shows.

It was also asserted that in spite of a national increase in national spot business during 1957, KMSO-TV's national spot business declined 20 percent in that year as compared to 1956. Since the licensee has made a partial showing in this respect we believe it is appropriate for us to consider the more complete 1957 financial data for the station submitted to us in the Annual Financial Report. The statements as to net loss and decline in national spot business are correct; but we also observe that KMSO-TV's total revenues increased in 1957 over 1956, by more than \$12,000, the decline in national spot being overcome by an increase in both network revenue and local revenue. With respect to the annual losses, we note that expenses increased by \$55,000 in 1957, including increases in depreciation (over \$18,000) and salaries and wages (\$16,000).¹⁸

37. It is to be noted that generally the broadcasters complain of the impact of auxiliary services operating in the same community where the station is located, or at least the same county—CATV's except in the case of Butte, where a booster is alleged to have caused some loss of business, and Lewiston, where a booster and a translator, as well as a CATV, are involved.¹⁹ However, in two cases—Idaho Falls and Cheyenne—the complaint is against CATV's operating outside of, and at some distance from, the city to which the station is licensed. In the case of Idaho Falls, the subject of complaint is a CATV in Pocatello, a city slightly larger than Idaho Falls and 48 miles distant. The licensee asserts that the station puts an equally good signal into both cities, and regards Pocatello as half of its basic market and expands half of its sales effort there, but derives therefrom only a third of the amount of revenue derived from Idaho Falls. In the case of Cheyenne, the complaint is against a number of CATV's, chiefly that in Laramie, Wyoming; it is asserted that in order to "sell" a small station it is necessary to have unduplicated coverage of every community of

¹⁸ We also note the statement by the Cheyenne broadcaster in the Committee Hearings that in 1957 his stations (Cheyenne and Scottsbluff) made a profit of only 2% on investment, and were operating at a loss to date (about the end of May) in 1958. We have also considered other more general statements by some licensees as to their losses, and the Tyler station's figures as to revenue.

¹⁹ The Lewiston licensee's complaint in the present proceeding is against CATV's, translators and boosters, without much distinction. However, in the Committee Hearings the broadcaster's testimony was aimed chiefly at the Commission's translator authorizations. It was stated that when the station was started the licensee was not happy about the fact that the CATV was so well established but thought it could be lived with. The translator authorization, it was said, was the real blow. The licensee objected to our action in authorizing the two translators, and also called our attention to the operation of an unauthorized booster by the translator permittee.

¹² This coverage showing is confirmed by Nielsen survey data.

¹⁴ Other possible factors stated or intimated in the Committee hearings were 1957-1958 economic conditions, said to be especially bad in the Kalispell area because of the depressed state of the lumbering industry which is its main support; and the alleged rather high cost of the operation. The CATV witness testifying (as mentioned above, the CATV had an interest in the station) stated that the station's revenues seemed to develop satisfactorily but its costs were high. We reached no conclusions as to these matters.

¹⁵ The distances shown herein are either distances obtained from the Table of Airline Distances published by the U.S. Department of Commerce Coast and Geodetic Survey (as in the present case) or measured on a map. Some of the distances mentioned in the comments and the hearing testimony appear to be inaccurate, unless they refer to distances from station to city rather than city to city.

any size in the station's coverage area.³⁰ In a third case—Riverton—the complaint is against a number of CATV's, in Riverton, Thermopolis, and other communities in the large area which the station is situated to serve. The Clarksburg licensee also mentions the impact of CATV's in counties other than the station's home county, as did the Fairmont broadcaster mentioned above.³¹

38. Appendix C¹ hereto lists these situations in the United States (both those specifically covered herein and others) in which there are auxiliary services bringing outside signals to an appreciable portion of the population of counties wherein regular or satellite stations are in operation or authorized. Set forth for these situations are the number of TV homes in the county, the number of sets within the station's coverage area (where this figure is available), the number of sets served by the auxiliary service or services, and the signals available therefrom, and the percentage which the number of sets served by the auxiliary service bears to the number of TV homes in the county and in the station's coverage area. It is observed that in cases such as Helena, Kalispell, and Lewiston, the percentage of sets served by the auxiliary services is relatively high, both in relation to the home county and to the total set circulation of the station. In other cases, such as Tyler and Clarksburg, the percentage is high as to the home county but considerably less as to the station's total circulation.

39. The amount of impact of course depends not only on the number of people served by the auxiliary service and that number's relation to the size of the market, but also on the number and character of the signals brought in. We have noted above the Helena situation in this respect. For this reason, the relative impact of a translator or booster as compared to a CATV system may not be as great as the respective number of sets served would indicate; the translator or booster installation does not provide more than one signal unless more than one unit serving the community is operated, whereas typically the CATV system carries three or more signals. This difference is to be noted, for example, in the case of Lewiston, where the subscribers to the CATV system receive the signals of three Spokane stations (as well as KLEW-TV), and thereby have available to them three large-city network stations; but the persons receiving translator or booster service are able to get only the Spokane ABC and NBC affiliates. KLEW-TV, whose

parent station is a CBS affiliate and carries a substantial amount of CBS programming, thus remains the only CBS outlet in its market for those not connected to the CATV.

40. We note that not all stations in whose home counties CATV's or other auxiliary services are operating appear to feel the impact, or if so have not complained of it. This can be seen by an examination of Appendix C. For example, in Ardmore, Oklahoma, Lock Haven, Pennsylvania, Clovis, New Mexico, and Ephrata, Washington (the last-mentioned a satellite operation), the number of CATV subscribers may be as high as 64.3, 58.6, 46.9, and 38.2 percent, respectively, of the TV homes in the respective counties.

The impact and "white area". 41. In Issue 3 herein, we requested information as to the number of persons who get their only television service from stations operating in or near communities where an auxiliary-service installation is operating—i.e., how many persons would lose their only service, and be in a "white area", if the local stations asserted to be the subject of serious adverse impact should be forced off the air.

42. The findings which it is possible to make on this subject from the data supplied are set forth in Appendix D.¹ It is not possible to arrive at any overall figure, because the data is not always complete and was prepared to a certain extent on different assumptions. For example, the response of the Idaho broadcasters to this question was prepared on two alternate assumptions: (1) that every town in Idaho of 2,500 or more would be completely "wired" by CATV's, in which event all of the regular television stations in the state would be forced off the air and the entire rural population, 336,088 (57.1 percent of the total population) would be without any off-air reception; (2) if only the six major markets in southern Idaho were "wired", which would probably force all of the stations off the air, only 33.8 percent of the population would have television service. This analysis of course does not take into account the existence of signals from Salt Lake City and Spokane within the State. Because of the incomplete data submitted, we have also used Nielsen survey data in some situations, as shown by Appendix D.

43. With respect to the relative numbers of people who would lose their only service as compared to the number who gain multiple service (to be considered in connection with Issue No. 10), the situation varies. For example, in the case of Helena, the number of subscribers to the CATV system is 2,200, and there are an estimated 30,000 persons in the service area; this would mean a loss of the service of KXLJ-TV to more persons than receive multiple service from the CATV. But in order to find that these persons would lose their only service it is necessary to assume that both the Butte and Great Falls stations would be off the air. As mentioned, these stations serve part, and likely a great part, of the population which appears to have been served by the Helena station. It must also be assumed that the CATV

will expand its number of subscribers. The same problems are also present in other situations. In some cases, such as Idaho Falls and Twin Falls, the persons who receive service only from those stations appear to be substantially more than the population which receives or would receive multiple services from the auxiliary services. But in other cases, such as Kalispell and likely Lewiston, the number served only by the local station is probably no larger than, and likely less than, the number benefiting from the auxiliary services.

44. The problem in connection with this question, aside from the rather incomplete and sometime inconsistent nature of some of the data, is that there is no definition of what is "service". It is well known that persons who do not live within the normal service contour of a station will go to great lengths to get a signal, building tall antennas or, as we have seen, starting or patronizing an auxiliary service. Therefore, it is not accurate to assume that the population of about 142,000 which receives Grade B or better service from the Tyler station and from no other station, actually has no other off-air reception. The Nielsen figures show to the contrary.³² There is to be considered the existence in some areas (i.e., notably, Lewiston) of translators and boosters in some numbers, as well as many boosters whose location is not known. Moreover, there is of course a substantial likelihood that many persons if they lose their only service will shortly receive service from new or expanded auxiliary service installations.

Conclusions as to impact. 45. Upon reviewing the available material, we can only conclude that there is an impact upon television stations, regular and satellite, from the operation of auxiliary services of substantial size which bring competing signals into the stations' home communities (and perhaps, to a lesser extent into other communities within their coverage areas). But we cannot tell at what point, in terms of size of the market or auxiliary, the number of signals brought in, etc., this impact becomes serious enough to threaten the station's continued existence or serious degradation of the extent and quality of its service. We must take into consideration that the Kalispell station is again in operation and, also, the existence of the station in Glendive, Montana,³³ which claims a total of only 7,000 sets within its coverage area. With these situations in mind, we could hardly conclude, for example, that the station in

³² The Tyler CATV operator testified at the hearing that some homes in Tyler and probably 90% of those outside Tyler and within KLTV's service area can get off-air reception from other stations, usually more than one.

³³ Nielsen credits the Glendive station (KXGN-TV) with coverage of four eastern Montana counties (Dawson, Prairie, McCone and Wibaux). In none of these counties was it the dominant station in viewing audience, according to the Nielsen survey made in the spring of 1958. Of course, since the station went into operation only in November 1957, the situation might have changed since in the latter respect. The only auxiliary services in these counties are two boosters (at Circle and Terry), both some distance from Glendive.

¹ Filed as part of the original document.

² The Cheyenne licensee has also objected to an application for a translator which would provide the city of Laramie with the signal of one Denver station. Consistent with our policy as outlined herein, we have recently granted that application.

³ Some of the other broadcasters also referred to CATV's and other auxiliary services within their coverage areas but outside of their home counties. However, in these cases either there is no specific discussion of the impact from these operations, or (as in the case of two Oregon stations) the data presented is so general as not to be susceptible of reasonably exact evaluation.

Idaho Falls, which according to Nielsen renders the only service to more than 20,000 TV homes in seven counties, is near a peril point.

46. The Idaho Falls situation mentioned above illustrates another aspect of the problem. We are told by some broadcasters that advertisers are interested primarily in coverage of the home community, rather than the wide rural coverage which a CATV, for example, cannot offer. But we are also told, and it seems apparent, that advertisers are interested in the number of sets which a station can deliver exclusively, because the viewers have no other signal available. In other words, the extent of the impact appears to vary inversely with the number of persons receiving their only service from the station, and who would lose their only service if it went off the air. This is perhaps the most important reason urged upon us for recognizing and taking steps to alleviate the impact, and it appears that this reason becomes less as the impact itself becomes more severe, and where the potential "white area" is large the impact is less. This is a factor which we must consider in determining our policy with relation to this problem.

47. Essentially, in attempting to evaluate economic impact in the broadcasting field, we are faced with the necessity of trying to preguess two sets of business decisions. One set of decisions is made by the advertisers, network, national spot and local. To what extent will they decide to buy, or not to buy, the station under particular circumstances, and what changes in circumstances will change this decision in a material number of cases? This we are not told, except in general terms. The second set of decisions are those of the broadcasters themselves. What kind of return on investment, if any, do they require to induce them to continue in broadcasting—and if the return does not meet their standards, will the station go under or will someone else apply for Commission approval to acquire the facility? The existence of a book loss is not necessarily the criterion; two-fifths of the country's television stations show a loss, including some in large markets. Tax considerations, joint AM-TV operations, common ownership of losing and money-making stations, and other factors may enter into such situations. The point at which a businessman quits the business obviously varies from individual to individual, and we cannot predict at what stage any particular broadcaster would be moved to turn off his transmitter.

48. In addition, we are in this case, where the impact of auxiliary services is involved, faced with the necessity of isolating this impact as a decisive factor. This cannot be done, because in all three of the specific situations described above there were other factors present—in Kalispell the small size of the market, and the ownership situation; in Helena the fact that the station apparently rendered service to unusually few people, many of whom apparently received virtually the same service from the parent Butte station; and in Fairmont, the

UHF-VHF problem, together with relative proximity to three larger-market stations which apparently were at least to some extent available off-the-air, was significant. We note in connection with Fairmont the possibility that one of the measures we consider further herein—requiring the CATV to carry the signal of the local station if requested—might well have been fruitful.

49. Likewise, we must consider the important and variable factor of the character of the local station's programming, both local and network, a subject as to which we have little information and which is at best extremely difficult to evaluate in any circumstances. A station in one small market may by its attractive programming successfully compete with a CATV or other auxiliary service, where another station similarly situated, with less attractive offerings, may not attract enough of the audience to be able to continue.

50. We are aware, of course, that effect on the public interest may take less drastic forms than the demise of a particular station. For example, stations may cut their hours of operation (the Cheyenne licensee asserted that it has already been forced to do so slightly); they may abandon much of their local programming activities and even (as Lewiston states will be necessary) revert to a satellite type of operation. They may not have money to pay for the more desirable films. They may not be able to secure enough funds for adequate studios or to construct microwave facilities so that their audiences may be provided with live network programming. All of these are possibilities. But the circumstances are essentially as unpredictable as the occurrences of the more drastic situation. As far as we are aware, there is no clearly defined relationship between the amount of money a station makes and the quality of service it renders. Rather, good service is shown on this record to be on occasion a result of competition—the competition provided by the auxiliary services. In at least two instances—Kalispell and Tyler—the broadcaster put in microwave facilities because it was necessary to meet the multiple service and live network shows provided by the competing CATV.

51. In short, we conclude that there is a likelihood, or even a probability, of adverse economic impact from auxiliary services upon regular television stations. But in what situations this impact becomes serious enough to threaten a station's continued existence or serious degradation of the quality of its service—or whether these things will probably happen in any particular situation—we cannot tell from the data before us. Moreover, as we have stated many times in considering economic injury, broadcasting is a dynamic business. If one station goes under, another station, or here another form of service fulfilling many or all of the same functions, may well soon replace it. The amount and certainty of the impact which we would have to find in order to justify a particular course of restrictive action naturally varies with the character of the particu-

lar action to be considered. This is discussed below: we conclude at this point that, considering the above situations and the factors involved, we have not found anything which would justify us in taking action, or seeking authority under which we could act, to bar CATV's from coming into or continuing to operate in a particular market. However, other less sweeping restrictive measures may be warranted.

Effect on future development of local stations. 52. There are some 200 CATV's, and a sizable number of translators and boosters, serving communities which have unused television channels allocated to them. Some of the parties herein suggested particular places which because of their size might well support a regular television station in the near future were it not for the presence of auxiliary services. Rock Springs and Green River, Wyoming, Havre and Shelby, Montana, Baker and Bend, Oregon, and Jerome and Gooding, Idaho, are among the places suggested. It was also suggested that some of the larger communities involved herein, such as Missoula or Twin Falls, in the absence of auxiliary service competition, might well support a second station and thereby the citizens in these areas would have a choice of service just as they have now.

53. We are aware that the presence of auxiliary services in the community, or possibly even in the area, may sometimes act as a deterrent to applicants or potential applicants seeking to start regular television stations therein. In two instances (involving Globe-Miami, Arizona, and LaGrande, Oregon) our authorization of applications for translators to serve these communities was followed by the withdrawal of applications for regular television stations in these places which had been filed. In the LaGrande case, no reason was given for the withdrawal; however, in the Globe-Miami situation the applicant (which is connected ownership-wise with the local CATV) stated that the Commission's action made it impossible to consider building a regular station. We also observe, however, that some instances cited by broadcasters of this alleged effect are no longer significant. Reference was made to the fact that a number of CP's had been granted for a station in Pocatello but all had been turned in, and that there had been no applications for Walla Walla, Washington, because of the well-established CATV systems in these places. However, an application for a Pocatello CP has been granted since the comments were filed in this proceeding, and the applicant has now filed an application for modification of CP to increase height and power. Late in January of this year applications were filed not only for the other Pocatello channel but also for Idaho Falls and Twin Falls; and an application is now pending for Walla Walla. Therefore, it appears that there has been no real deterrent effect in these cases."

"The Fairmont broadcaster mentioned above now has an application pending for a CP for Weston, West Virginia (VHF) where he would have competition from Weston, Fairmont and Clarksburg CATV's.

54. In the area of impact on the development of new stations, as in the case of existing stations, we can only conclude that there is probably an impact in some situations, so that in these situations a regular station will not be built with the auxiliary service in existence, whereas absent the auxiliary service it would be. But there is no way to define these situations, or tell when they exist or do not exist. There are a number of other factors to be considered—the size of the community involved, its location in relation to surrounding stations, potential coverage and terrain, economic conditions in the area, and others. There is also the personal element; a fairly daring entrepreneur might embark on television broadcasting in one community, where in another community similarly situated a more cautious approach prevails. Moreover, since as we have concluded it is not possible to say in general that a particular community cannot support both a local station and a competing auxiliary service, we can find no basis for laying down a rule that in communities of less than a certain size the auxiliary service must cease operation when a regular station is ready to commence operation.

55. *Technical complaints against CATV's.* As mentioned, there are complaints by broadcasters that the presence of a CATV terminal at a subscriber's set makes off-air reception of the local station difficult, and that at the same time the CATV either does not carry the local station on the cable or, if it does, degrades the signal. In the case of Missoula, where the station operates on Channel 13 and is converted to Channel 5 on the cable, the broadcaster alleged that his picture is badly degraded; on the other hand, the CATV representative who testified in the Committee Hearings stated that the poor picture on the cable was due to the inferior quality of the signal originally. In the case of Kalispell, it was testified that the Kalispell system refused to carry the signal, and the Whitefish cable carries it but degrades it so badly that the station cannot sell any advertising there. In situations in Burlington and Bluefield, the problem is described as adjacent-channel interference; the system converts an outside station to the channel next to the local station's frequency. In the case of Tyler, it was alleged that the CATV terminal throws the set out of balance so that the station's signal cannot be received well off the air by the subscriber. Later, when the station was carried on the CATV system, the broadcaster complained of degradation (through conversion from Channel 7 to Channel 6, necessary because the system did not carry channels higher than Channel 6)²⁰ but the CATV representative testified that over-loading was the problem, and that it was a general problem with reception of Channel 7 in Tyler. In the case of Riverton, there was complaint that the

systems degrade the signal of KWRB-TV, and that also on occasion their operation is interrupted by breakdowns. There is also the problem that where, as in most cases, the CATV has come into the market first, subscribers do not bother to install a switch to enable them to get satisfactory off-air reception of the local station, but often rely on the poor-quality local signal which "bleeds in" to the set. In some cases the CATV operators have offered their subscribers switches to enable them to get both satisfactory off-air and CATV reception (sometimes, but not always, offering to install them). It appears that, overall, a majority of CATV systems carry the local signal where there is one. In view of these situations, several broadcasters (including, as might be expected, UHF operators) urge that we require the CATV to carry the local station on the system if the station so requests, with adequate safeguards against degradation of its signal. We believe this suggestion is worthy of further consideration.

56. *Present "white area."* Issue No. 6 herein asks for information as to the amount of "white area" still existing, and what the Commission should do to encourage the bringing of television to these areas. No exact data on this subject was submitted. It is stated that there is still extensive white area in Colorado, and some in Montana; Wyoming has a small amount and in Idaho roughly 5 percent of the population, in mountainous areas, still get no service. It is estimated that there is also some area without any service in Texas, due to the large distances involved. As to what should be done, there were no very specific suggestions. Some broadcasters urged that the auxiliary services should not be allowed to deter the building of regular powerful stations to reach these areas (no specific sites for such stations were mentioned). Booster groups and some broadcasters urged the licensing and encouragement of VHF boosters, and some broadcasters who operate satellite stations urged the encouragement of this type of operation as a good way of providing television to what is still "white area".²¹

IV. *The three basic legal issues.* 57. We have set forth for consideration herein three basic legal questions involved in any course of action we might adopt. These are: (1) what basis is there under present law, if any, for our assumption of licensing and regulatory powers over CATV systems (Issue No. 11); (2) would it be legally valid for us to deny authorization for common carrier facilities for transmission of programs to CATV systems on the ground

of adverse competitive impact on an existing local or nearby television station (Issue No. 12); and (3) whether economic injury to a television station can be a valid public interest justification for denial of authorizations to auxiliary services which compete with such station (Issue No. 13). We consider these questions, in order, before proceeding to discuss the various proposed courses of action.

A. *Jurisdiction or authority with respect to CATV systems.* 58. Many of the broadcasters commenting herein assert that the Commission has jurisdiction to regulate CATV's. Some regard this jurisdiction as extending to licensing and even rate-regulation, while others argue that at least we have authority to enforce against CATV's (by cease-and-desist order) certain rules which these parties urge us to adopt (specifically, rules requiring the CATV to have the consent of the stations whose signals it transmits). Various bases of jurisdiction are asserted, including:

(a) Regulation of CATV's as common carriers under Title II of the Communications Act. Parties so arguing would have us reverse our decision in *Frontier Broadcasting Company v. Collier*, 16 RR 1005 (April 1958), *supra*.

(b) Authority over CATV's as broadcasting stations or, at least, engaged in broadcasting, based on the definitions of "radio communication", "broadcasting" and "broadcast station" contained in subsections (b), (c) and (cc) of section 3 of the Act.

(c) Jurisdiction over CATV's as a significant part of the Communications industry, which the Commission has "plenary power" to regulate; or, as enterprises having a substantial (adverse) impact upon broadcasting activities which the Commission does regulate and upon the mandate of section 1 and section 307(b) of the Act.

(d) It is contended that section 325(a) applies to CATV's as well as to broadcasting stations, so that they are required to secure the consent of the originating stations whose signals they carry; or, if CATV's are not literally within the scope of that section, the same "property right" principle applies in their case and the Commission should by rule affirm it. Under either theory, it is argued, CATV's could be compelled, by cease-and-desist order under section 312(a), to comply with this requirement.

59. We have no doubt that, as the broadcasters urge, CATV's are related to interstate transmission (regardless of where the station retransmitted is located, the signal often originates, via network, in New York or elsewhere). Therefore it appears to us that there is no question as to the power of Congress to regulate CATV's, or give the Commission jurisdiction to do so, if it desires. But, as an administrative agency created by Congress, we are of course limited by the terms of the organic statute under which we were created, and must look to that statute to find the extent of our jurisdiction and authority.

60. In the *Frontier* decision, *supra*, we held that we do not have jurisdiction over CATV's under Title II, because they

²⁰ According to the Tyler CATV representative, the station wanted to be carried on Channel 4 and the station operating and carried on Channel 4 be converted to Channel 6. Since this would mean an additional conversion, the CATV refused to do it.

²¹ Jerrold Electronics Corporation urges us to note the showing made by it in Docket 11866, the proceeding concerning the allocation of frequencies above 890 kc. relating to use of microwave to permit CATV's to serve towns at greater distances from stations than is now possible except where common-carrier microwave facilities are used. Thus, it is asserted, many communities not now receiving any acceptable signal may be enabled to receive television. We do not need to pass upon this request in the present proceeding.

are not common carriers. We pointed out therein that the legislative history of the Communications Act makes it clear that Congress was using the term "common carrier" in its ordinary sense:

In other words, the carrier provides the means or ways of communication for the transmission of such intelligence as the subscriber may choose to have transmitted. The choice of specific intelligence to be transmitted is, therefore, the sole responsibility or prerogative of the subscriber and not the carrier (16 RR 1009).

We stated that by their nature CATV's are not common carriers, since it is the CATV, rather than the subscriber, who determines what signals are to be carried on the system. Frontier and the other complainants filed a petition for reconsideration of that decision, on which we pass at this juncture. Frontier urges that the question of the degree of choice in the subscriber is not determinative, citing in this connection two cases cited in the complaint (Western Union Telegraph Company, 5 RR 1213 (1950) and Charles Edward Stuart, Docket No. 6553, File No. T5-Ph 526).

61. Upon consideration of this petition and the response thereto filed by the NCTA, we adhere to our decision. In both of the cases mentioned, the subscriber (sender or recipient) controlled the nature of the intelligence transmitted (in the Western Union case, running accounts of baseball games, in the Stuart case messages received from a Chinese radio station and forwarded by Stuart to specified individuals), whereas in the instant case, as we have observed, the subscriber does not choose the particular stations, much less the particular programs, from which he can select his CATV television fare. We have referred above (Footnote 15) to a situation in which it appears the CATV polled its subscribers and determined the selection of stations by majority vote; but the minority of subscribers who wanted to receive the local Fairmont station (17%) certainly were not able to exercise their choice in that situation. We also observe that in the case of the CATV in Casper, Wyoming, programs from four stations (three in Denver and one in Cheyenne) are presented over two channels on the system; this involves a switching arrangement under which the two most desirable programs being presented on the various stations at any time are selected for presentation. These situations make it clear, as we pointed out, that the choice of what signals or programs are presented on the various system channels is essentially not in the subscriber. Therefore, we adhere to our decision that we do not have jurisdiction over CATV's under section 3(h) and Title II of the Act, even though we assume (without deciding) they may be within the scope of section 3(a) which defines "wire communication" and includes "all instrumentalities, facilities, apparatus and services * * * incidental to such transmission". The other arguments advanced by Frontier in its petition for reconsideration (e.g., that we recognize economic impact upon broadcasting in our consideration of microwave common

carrier applications) are considered elsewhere herein.

62. *Jurisdiction over CATV's as "engaged in broadcasting".* Section 3(b) of the Act defines "radio communication" as the "transmission by radio of writing, signs * * * including all instrumentalities, facilities, apparatus and services (among other things, the receipt, forwarding and delivery of communications) incidental to such transmission". Section 3(c) defines "broadcasting" as "the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations". Section 3(cc) defines "broadcast station" as "a radio station equipped to engage in broadcasting as herein defined".

63. As for the suggestion that CATV systems are "instrumentalities" within the meaning of section 3(b) and that therefore (since they are engaged in the distribution of broadcast television programs to these members of the public who reside in locations which the CATV can feasibly reach and who are willing to pay the charge involved) they are engaged, in a sense, in "broadcasting", this would not of itself give us jurisdiction to regulate these systems. Section 301 of the Act provides in general that the operation of any apparatus for the transmission of energy or communications or signals by radio shall be only pursuant to the Act and in accordance with a license issued thereunder, by the Commission. This section clearly does not include the transmission of programs by CATV systems, since such transmission is by wire. We find no basis in the definitions contained in section 3 for the assumption of authority over these systems.

64. *Regulation under "plenary power" over communications.* It is urged that we should regulate CATV's under our "plenary power" over communications. Some parties have cited to us in this connection various subparagraphs of section 303 of the Act, under which we are empowered to classify stations, encourage the use of radio, make regulations applicable to chain broadcasting, and generally make such rules and regulations, not inconsistent with law, as may be necessary to carry out the Act (subsections (a), (b), (f), (g), (i), (r)). However, we do not believe we have "plenary power" to regulate any and all enterprises which happen to be connected with one of the many aspects of communications.

65. *Authority under section 325(a), or similar "property right" concept.* Section 325(a) of the Act (which is in substance the same as the corresponding section of the Radio Act of 1927) reads as follows:

No person within the jurisdiction of the United States shall knowingly utter or transmit * * * any false or fraudulent signal of distress * * * nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

Some broadcasters argue that CATV systems are included within this provision, as "broadcasting stations" engaged in

"rebroadcasting" (in practice, as already mentioned, it appears that CATV's seldom attempt to get such consent). They cite in support of this position a statement by Senator Dill, one of the sponsors of the Radio Act of 1927, in connection with Senate consideration of that legislation (see 68 Cong. Rec. 2880). Therein, Senator Dill urged the adoption of this provision because otherwise a station would spend considerable money for a program and it could then be picked up and broadcast from other stations, "and particularly over the wired wireless, and money charged for listening to it." The reference to "wired wireless" is taken as an indication that Congress had in mind wire retransmission of the sort since developed by CATV systems. However, attention must also be given to the rest of Senator Dill's statement, which reads as follows:

* * * The provision referred to does not prevent rebroadcasting, but it does require those who would rebroadcast to get permission from the original broadcaster. I do not think the construction placed upon the section by the gentleman who sent the telegram is justified. Of course he cannot rebroadcast it, but rebroadcasting is not publishing. It has a generally understood meaning, namely the reproduction by radio of the broadcasting waves.

The reference to "reproduction by radio" in the last sentence would seem to exclude reproduction or distribution by wire as in the case of CATV's.

66. We have in the past indicated our approach to a somewhat similar question, in our Report and Order on Amendment of Rebroadcasting Rules (1 RR (Part 3) 91:1131). We were asked in that proceeding to hold that section 325(a) was meant to protect the property right of whoever had such a right in the particular program, and that therefore consent should be required to be secured not only from the station rebroadcast but from the network station originating the program, or the sponsor or advertising agency which bore the cost of producing it. We quoted Senator Dill's statement, and observed that it appeared that Congress intended to protect the property rights in the program of those having such rights—in 1927 generally the station but now frequently others. We stated, however: "To the extent that section 325(a) may no longer accurately reflect present conditions or effectively carry out the original intent of Congress, the amendment of the section, or its repeal insofar as it pertains to rebroadcasts, is a matter requiring legislative action."

67. We are of the same view today. It may well be that Congress would desire to protect the property right of a broadcaster as against CATV retransmission as well as against rebroadcasting. For this reason, as well as because of the competitive impact involved here, we intend to recommend to Congress that an appropriate amendment to section 325(a) be enacted, so as to extend the "consent" requirement to CATV's. But we do not believe that we can conclude that section 325(a) in its present form includes the requirement that CATV's

get the consent of the stations whose signals they carry.

68. By other broadcasters, who do not urge that section 325(a) now goes so far, we are asked to recognize the existence of a property right, and to affirm it by rule; then, it is said, we would be in a position to issue "cease and desist orders" against any CATV system rebroadcasting a signal without permission. This course of action we do not believe appropriate. This is not the forum in which the existence or non-existence of a private property right can be adjudicated; we note in this connection that while CATV's have been in commercial operation for nearly a decade no serious prosecution of this claim has yet been made by any broadcaster, as far as we are aware. Until the existence of such a right is determined finally, either by judicial decision or by Congressional enactment, we cannot appropriately consider a rule based on the assumption that it exists.

69. *Authority to regulate CATV's because of adverse effect on broadcasting.* It is urged by some broadcasters (often in connection with assertions made on the basis of sections 3(b) and 3(c) mentioned above, or the "plenary power" theory) that we should regulate CATV's because they have a substantial adverse impact upon broadcasting, and tend to thwart what is our mandate under sections 1, 303 and 307(b), to foster nationwide radio and television service, etc. Cited in this connection are certain Supreme Court decisions dealing with the dairy industry (*United States v. Wrightwood Dairy Company*, 315 U.S. 110 (1942) and *United States v. Rock Royal Co-op*, 307 U.S. 533). In the *Wrightwood* case the Court held that purely intrastate distribution of milk in competition with interstate commerce is subject to Federal regulation. Likewise, in *Houston, East & West Texas Railway Co. v. United States*, 234 U.S. 342, the "Shreveport case", the Supreme Court held that the Interstate Commerce Commission could act to prevent a carrier from charging a discriminatorily low intrastate rate, though that Commission had no jurisdiction over intrastate rates as such. In short, it is argued, aside from the fact that CATV's are within some of the definitions of the Communications Act (although their being so makes the argument stronger) we can control them because of their effect upon broadcasting, clearly an interstate business and one which we are instructed to foster and lead to orderly maximum development.

70. Assuming this concept has legal validity (a point we believe is open to question, and upon which it is unnecessary for us to pass) in order to acquire jurisdiction on this basis, and a fortiori in order to utilize it, either in a rule making proceeding or on a case-to-case basis where we could consider whether or not a CATV system should be permitted entry into the field, we would have to make a finding that in a certain situation, or in situations falling within certain limits, there would be a substantial adverse impact on the local station. We have expressed above our inability to determine where the impact takes effect, although we recognize that

it may well exist. Accordingly, we would find it impossible, from anything presented to us so far, to make the necessary finding, either in a particular situation or generally. Moreover, in any event, jurisdiction on this basis would exist, if at all, only in certain situations, and would therefore be a fractional approach to the problem. It is more appropriate to seek certain other specific remedies, discussed later herein. For these reasons we cannot appropriately proceed to regulate or control CATV's on this basis.

71. In sum, as to Issue No. 11, we find no present basis for asserting jurisdiction or authority over CATV's, except as we already regulate them under Part 15 of our rules with respect to their radiation of energy.

B. *The economic impact and microwave common carrier authorizations.* 72. With respect to Issue No. 12 in the Notice of Inquiry, it has been urged by most of the broadcasters that the Commission is obligated, in making the determinations of "public interest" under sections 307(a) and 309(a) of the Communications Act, to consider the impact upon a television broadcaster of the grant of radio facilities to a communication common carrier, where the common carrier facilities will be used for the purpose of providing communication service to a community antenna system operating in competition with the broadcaster. Implicit in this argument is recognition of the fact that it is not the common carrier which competes with the broadcaster or affects him adversely; it is the CATV. To embrace this argument would require the Commission to consider the content of the communications handled by the carrier, and the ultimate use to be made thereof.

73. In essence, the broadcasters' position shakes down to the fundamental proposition that they wish us to regulate in a manner favorable toward them vis-a-vis any non-broadcast competitive enterprise. Thus, for example, we might logically be requested to invoke a prohibition against access to common carrier facilities by such enterprises as closed circuit music and news services, closed circuit theatre television operators and, possibly, even ordinary motion picture and legitimate stage operators, magazine and newspaper publishers, etc., comprising all of the entities which compete with broadcasting for the time and attention of potential viewers and listeners. The logical absurdity of such a position requires no elaboration.

74. We have heretofore partially answered this argument in our opinion in *Re Application of Intermountain Microwave*, 24 FCC 54, 16 RR 733 (January 1958), which we now affirm. Enlarging upon that decision, we now wish to make this point: the "public interest" considerations which pertain to the grant of a communications common carrier application are not the same as, or interchangeable with, those which pertain to the grant of either a Broadcast Service application or a Safety & Special Radio Services application. For example, in the case of the latter, the Commission determines that the public interest would be served by the allocation of certain fre-

quencies for use by certain types of services. After this determination, all that remains, for each individual applicant, is to ascertain whether he is legally, technically, financially and otherwise qualified and to determine whether he falls within one of the stated eligible groups. In the case of a broadcast applicant, on the other hand, despite the existence of broadcast frequency allocations and service rules, a more searching and complete "public interest" determination is made with respect to each individual applicant, including an examination of the "content" of the service proposal. Thus, a broadcast applicant must not only show that he is legally, technically, financially and otherwise qualified, but he must also show, for example, explicitly how his proposed operations will serve the "public interest", including program plans and, under some circumstances, relationship to other media of mass communication and other matters. In the case of the common carrier applicant, in addition to the showing of legal, technical, financial and other qualifications, there is, typically, the necessity for showing that there are no other public communication facilities available to do the specific job proposed; that the applicant is ready, able and willing to serve all members of the public who may desire the service, without discrimination; and that there is now in being one or more members of the public who require the service, or some reasonable expectancy that one or more such persons will present themselves if the facility is authorized.²⁸

There is no examination of the "content" of the intelligence which is to flow over the communication circuit.

75. We are of the opinion that, in relation to the authorization of a common carrier facility, whether it be for a radio facility under Title III of the Act or a wire facility under Title II, it is neither proper, pertinent nor necessary for us to consider the specific lawful use which the common carrier subscriber may make of the facilities of the carrier. To take a different view would place the Commission in the anomalous position of acting as a censor over public communications, and put us under the burden of policing, not only the use of such facilities but the content of communications transmitted on the facilities. The logical extension of such a philosophy would require us to deny communications facilities of any kind (message telephone, telegraph, etc.) to CATV's and, for example, to deny access to facilities to those acting contrary to our concept of the public welfare. The adjudication of these matters is beyond our province.

76. Finally, we wish to emphasize that the rendition of common carrier communication service involves some situations which may be unique in the field of public utility regulation. The broadcasters challenge the propriety of regarding specialized microwave relay facility operations, of the nature herein discussed, as being common carrier operations. It is

²⁸ This simplified statement of matters to be considered is only an example, it being obvious that competitive common carrier considerations, or other particular problems, may involve other points of inquiry.

not unusual, in the communications field, to find a carrier providing a regulated particular type of communication service over a particular route for a single customer. The carrier may be one who offers a specialized type of service, as distinguished from one who offers a general service (see *In the Matter of Allocation of Frequencies, etc.*, For a Theatre Television Service, 9 RR 1528, 1538-1539). Also, it must be remembered that many communications common carriers traditionally and regularly provide services which are designated "private line services". Such services may, for instance, comprise single or multiple communications paths to one or many points for a single customer. In a context more closely related to the instant problem, we point to the fact that many broadcasters utilize the services of Bell System Company, or independent telephone companies, where the carriers provide a tailor-made, especially constructed microwave facility comprising an off-the-air pickup point, and associated relays terminating in the broadcaster's studio. This is a typical broadcaster's private line common carrier facility where there is, in fact, only one user or subscriber involved and where more than one such user on that particular facility is seldom, if ever, contemplated or expected. On the contrary, many common carrier installations affording similar pickup and relay services for CATV systems (as specialized carriers) provide such service to multiple subscribers simultaneously and operate with the continued hope and expectation that new and additional broadcast and CATV subscribers may avail themselves of the use of the facility. In the communications field, these activities have always been treated and regulated as a communications common carrier offering. We find no basis to warrant a change in this regard at this time.

77. For these reasons, we conclude that Issue No. 12 in this proceeding must be answered by a determination that it would not constitute a legally valid exercise of regulatory jurisdiction over common carriers to deny authorization for common carrier microwave, wire or cable transmission of television programs to CATV systems on the ground that such facilities would abet the creation of adverse competitive impact by the CATV on the construction or successful operation of local or nearby stations.

78. *Requiring that microwave communication common carriers show consent of the station whose signals they transmit.* One of the most common of the broadcasters' requests herein is that the microwave common carriers supplying the CATV's be required to show that they or their CATV customers have the consent of the station whose signal is picked up and transmitted for such use by the CATV. It is felt that while the direct requirement of CATV consent may be beyond the Commission's power at present, at least the Commission can impose such a requirement on its licensees, the microwave carriers who serve the CATV's. Some broadcasters put this in terms of character qualifications, arguing that relaying or transmitting without consent is "piracy", and that the

Commission should not license facilities whose sole purpose is to engage in such activities, in line with its stated policy of considering violations of law on the part of an applicant in considering his application.

79. This contention is without merit. As we have noted, the matter of whether a property right exists has not been adjudicated, and we could therefore not appropriately impose this requirement upon the carrier, for the reason stated above in connection with the proposed rule requiring CATV's to have consent.

80. Accordingly, we are now considering a number of pending applications for microwave common carrier facilities on which we have withheld action during this proceeding and we propose, as soon as practicable, to resume the normal processing of such applications.

C. The significance of economic injury.

81. Issue No. 13 herein calls for a determination as to whether economic injury to a regular television station can be a valid justification, in the public interest, for denial of authorization to an auxiliary service which would be in competition with the stations. The broadcasters say "yes", when the economic injury affects the public interest, as by causing the demise of the local station and resulting loss of a local outlet and, perhaps, the loss of the only service to outlying areas. Serious degradation of the station's service resulting from the impact is likewise urged as a public interest consideration. NCTA and other pro-CATV parties urge that the Commission should take here the same position it has traditionally taken in economic injury cases—that as a matter of policy economic injury to an existing station should not be considered, both because it is impossible to predict the future in this respect (it is said to be even less susceptible of proof in the present context) and because the Commission has no public-utility control over broadcasting operations, and cannot review their rates, costs, efficiency and similar matters (Voice of Cullman, 6 RR 164 (1950); Southeastern Enterprises, 13 RR 139 (1957)). They urge that broadcasting is an area of free competition. On the other hand, the broadcasters refer to the fact that we took cognizance of the facts of competitive economic life in the UHF-VHF situation, ordering deintermixture in certain areas on that basis. They also assert that in effect we have already answered this question, in our rule making proceeding concerning translator authorization under this sort of circumstances (Docket No. 12006). In disposing of that proceeding (Report and Order, FCC 57-886, 15 RR 1708 (1957)), we noted that the problem might well exist in some situations, but that also we could envisage situations in which the translator could operate in the community (or a nearby community) without adversely affecting the regular station. We decided that the problem could better be handled on a case-to-case basis, in which we would consider the question in the light of such factors as terrain, the coverage of the translator, the presence or absence of a CATV, the character of the "regular"

station (satellite, network or nonnetwork, etc.)—factors which should be thoroughly considered before determining whether a translator should be disallowed. The broadcasters assert that therefore we have already determined that economic injury is to be considered, on an individual basis; they ask that we adhere to that position. They say that they do not object to competition, or to our not taking economic injury into account, where the question is one of competition between regular broadcast stations, between "likes", instead of the unequal, "unfair" competition which exists here between two different business activities which are not only on disparate competitive footings but differ intrinsically in the extent to which they can serve the public interest.

82. In our recent holdings that we not only should not but legally could not consider economic injury in the typical "new station in the market" protest cases, we indicated a possible exception where "307(b) considerations" are involved (Southeastern Enterprises, supra; West Georgia Broadcasting Company, 14 RR 275 (1957)). In Carroll Broadcasting Company v. FCC, 17 RR 2066 (July 1958) the United States Court of Appeals for the District of Columbia reversed our West Georgia decision, holding erroneous our view that the Communications Act does not give us power to consider the effect of legal competition. The Court held that we must afford an existing licensee (in a protest case) an opportunity to present proof of economic injury, amounting to public detriment, which would result from the grant of the application involved; if the evidence is substantial we must make findings on the subject.

83. Clearly, in the present series of situations there are "307(b)" considerations involved, since if the broadcasters' view is sustained a number of local stations may be forced off the air with resulting loss of a local outlet and of the only service to some population. Therefore, and considering the holding of the Carroll case, we believe our answer to the issue—as it is framed—must be "yes", as we intimated in our Report and Order referred to above. But we emphasize that in arriving at this answer, all we say is that in authorizing a translator in this kind of situation, or taking similar action with respect to other auxiliary services, we will take into account—when and to the extent that it can be established—such adverse economic impact (of such character as to be of detriment to the public interest) as may result to the local station. It should be noted, however, as the Court pointed out in Carroll, that proof of such economic injury "is certainly a heavy burden".

V. *Refusal to permit auxiliary services to operate in particular circumstances (Issues 7, 8 and 9).* 84. Basic to many of the broadcasters' requests herein is the idea of excluding competing television signals—particularly multiple "big city" full network signals—from a particular market. In effect, we are asked to say to a portion of the area's population (sometimes, but not

always, a minority), "You shall not receive these additional signals", even though they are available in the market via the auxiliary services and the people are willing to pay for them, and regardless of the limitations which may exist on the program service provided by the local station and of the benefits which, as we have seen, often flow from competition. We are asked to perpetuate a monopoly position for the local broadcaster, and to strike down the diversity of viewpoint which is one of the basic principles of our longstanding policy in favor of diversification of control of mass media.

85. It is asked that we do this in order to effectuate the mandate which is laid down in sections 1 and 307(b) of the Act, and the priorities which set forth when we allocated television channels in our Sixth Report and Order in 1952. The first three of these priorities are as follows:

- (1) To provide at least one television service to all parts of the United States.
- (2) To provide each community with at least one television broadcast station.
- (3) To provide a choice of at least two television services to all parts of the United States.

It is urged by many broadcasters that we must effectuate these priorities, which we used in allocating television channels, by acting to prevent the auxiliary services, which furnish service to a few, from destroying the local outlet (Priority No. 2) and any service to a larger number. As we have stated, it is difficult to determine from the data herein, in many cases, how many persons would actually lose their only service if the local station should go off the air; in some cases, it is likely that the number so losing their only service is greater than the number who would gain it, but this is not always true. Moreover, as we stated in *Voice of Cullman*, 6 RR 164 (1950), it is generally impossible to predict the future in the dynamic business of broadcasting. It is entirely possible that those losing service will be enabled to receive within a short time via translator; it is possible that eventually another regular station, or satellite, will be started in the market and (because of better programming or for other reasons) may survive where the former station failed.

86. It is basically the public which must determine the question, as in all broadcasting and free-enterprise businesses. With the above considerations in mind, our position is that we do not now know of circumstances which would justify our limiting or prohibiting the operation of satellites or translators, or of CATV systems. Accordingly, we do not propose to seek legislation empowering us to restrict CATV's from operating in any community, for we do not have in mind a situation where we would feel justified in using such power if we had it. As to the services which we authorize, we will continue in satellite and translator cases to take into account economic injury, with the limitations mentioned above; but, again, we do not now envi-

sion where we could find that the public interest would be disserved by affording an opportunity for choice of service and the benefits of competition and diversity of expression. In this connection, we affirm our decision in the *Lewiston* case (*Orchards Community Television Association, Inc.*, 16 RR 944 (March 1958)), in which we refused to stay the grant of applications for two translators to serve Lewiston, Idaho, where a local station was (and is) in operation. The station was what might be termed a "semi-satellite", largely rebroadcasting the programs of another station (*KIMA-TV*, Yakima, Washington); the translators would bring in two Spokane signals. We go no further than the facts of that case.⁸⁷

87. The foregoing is the answer to Issue No. 7—what considerations, if any, would justify limiting or prohibiting the operation of any of the auxiliary services. Issue No. 8 herein is to determine whether we could justifiably distinguish between a community which has, and one which has not, a local outlet, in deciding whether an auxiliary service should be authorized. The broadcasters answer this question in the affirmative; in general, the pro-CATV parties take the negative position, pointing out the anomalous situation which would exist where a community too small to conceivably have a station might be eligible for auxiliary services bringing in multiple quality signals, whereas a larger community would not, on this basis.

88. We do not believe a categorical answer here is possible. We have stated before that we will continue to take these public interest factors into account, with the reservation that we do not now know of a situation where we would be justified in applying them so as to deny an auxiliary service authorization. We will face this question when, and if, it arises.

89. With respect to Issue No. 9, we pose the question therein of whether—if a choice is required—the public interest is better served by maintaining the local service to rural areas, or providing multiple service to a smaller number of persons in the city "at the cost of or at serious risk of" continuation of the only service available to the rural areas. The broadcasters' answer to this question is, of course, that the choice is obvious, that the "only service" must be maintained. The opposing parties take the position that such a choice has not been shown to be, and in fact seldom if ever is, required; that if so it is likely because of the poor character of the local service; and that this is a decision which an administrative agency operating in the context of Title III of the Communications Act cannot make, but must be left to the forces of competition and what the public wants. The broadcasters call our attention to our priorities set out in the Sixth Report and Order, not only Priority No. 2, providing a local outlet

⁸⁷ In line with these considerations, we have recently affirmed our grant of an application for a new translator to serve Laramie, Wyoming, to which the Cheyenne licensee objected.

to as many communities as possible, but Priority No. 1, providing a first service to as much of the United States as possible, and urge that we implement and effectuate these priorities. They assert that "the minority"—i.e., the city dwellers who want and can afford CATV service (the same might apply equally to the other auxiliary services) should not be allowed to determine the fate of the whole population of the area, and cause part of it to lose its only television service.

90. With the same limitations we have set forth previously—that we have yet to be shown that the choice is or will be presented, and bearing in mind the likelihood that in fact the population which might appear to lose its only service can actually get service from stations at some distances or will shortly be able to via translator—there is some merit in the broadcasters' position. This would be especially true where the number losing their only service is considerably greater than the number who would receive the multiple service. This question we can decide, as we indicated in Docket No. 12006, on a case-to-case basis. We also consider in this connection, of course, the value of a local outlet which we have often emphasized; but the weight of that factor would of course be less than that attached to the "only service" mentioned in Issue No. 9.

VI. *Suggested courses of action and legislation.* 91. What has previously been said disposes of many of the suggestions made by the broadcasters as to how we should deal with this problem. Suggestions that we should hold a hearing relating to each area and decide which form of service to authorize (ranging from regular station at the highest to CATV at the lowest) we cannot accept for the obvious reason that such a hearing would hardly be productive. Any blanket restriction on auxiliary service authorizations—such as the suggestion that we have rules prohibiting any auxiliary service within the Grade B contour of a local station, and require any such service to cease operation when a local station goes on the air—are likewise unacceptable. Moreover, for reasons mentioned we do not believe proposing legislation enabling us to limit the entry of CATV's into a community is a suitable suggestion. In general, we propose to continue our policy with respect to translator authorizations; we will take similar consideration into account if, and when, we license repeaters in the VHF band. With respect to restrictions on microwave common carrier authorizations, either in the withholding thereof or in conditioning them on showing consent from the station whose signal is transmitted, these are likewise rejected, for reasons stated above.

92. There remain certain suggestions which merit further discussion. With respect to requiring that CATV's get the consent of the originating station, we believe this is meritorious and will shortly request Congress to enact legislation requiring them to do so, by amending section 325(a) with appropriate

language to achieve this result.²⁸ We believe this is desirable to clarify the situation with respect to property rights (as we stated in considering the rebroadcast rules, we believe Congress intended to recognize and protect the property rights in programs). Additionally, we believe it is desirable to place the CATV under the same conditions as the broadcaster with respect to access to programs originated by other stations.

93. Beyond this it has been suggested that Commission approval be required before a station consents to the retransmission of its signals by translators, boosters or CATV systems.

One of the arguments advanced for this requirement is that we would then have a tool by which we could regulate the use of signals outside a station's normal service area where it would have an adverse economic impact on a local station, by requiring the licensees granting consent to do so only with our prior approval. (It is also suggested the licensees might themselves withhold consent for the same reason in line with their public interest responsibilities). For reasons already stated, we do not presently envision such a system of regulation, which would mean foreclosing signals from a market.

94. We also believe meritorious a requested requirement that the CATV carry the signal of the local station or of a nearby station if the station so requests. We have mentioned above the technical difficulties which appear to have occurred, whereby the subscriber cannot get the local station satisfactorily off the air, and either the system does not carry it or the signal is poor. As we have noted, the vast majority of known CATV systems now have three or more channels. Therefore this requirement would in all but a relatively few cases mean no deprivation of program service to the subscribers since they would have three signals, as many as people in much larger markets. At the same time it would give the local station ease of access to all of the sets in its market. We also propose to require that the local station's signal not be degraded but be at least equal to other signals on the system. These two requirements we would recommend be added to the Communications Act as a separate section in Title III.

95. Another suggestion made by various broadcasters is that there be a rule against the CATV duplicating programs carried by the local station; sometimes this request is confined to programs being presented simultaneously but other broadcasters request that the CATV not be allowed to present ("live" or "first run") programs to be presented later by the local station. There are further requests that the local station be given the first refusal, as against presentation on the CATV system, of all programs of its

network, and that indeed the CATV not be permitted to present any of that network's programs.

96. We cannot agree to adopt or support any of these suggestions. Certainly, with respect to anything more than the barring of simultaneous duplication, we believe this to be an unwarranted invasion of viewers' rights to get "live" programming if they are willing to pay for it. The suggested rules restricting presentation of the programs of the local stations's network would appear to be cumbersome, if not completely unworkable, especially considering that many stations in small markets, including some of those covered in the record, present programs of two or even three networks. As to the prevention of simultaneous duplication, it is true that this would involve no loss of program service to the community; but it would appear to present substantial inconvenience, not only to viewers (who would have to keep switching channels to follow a particular network) but to the auxiliary services (presumably translators would have to be treated the same way), who would have to keep turning their installations on and off.

97. The last suggestion we consider is that CATV's be subject to our multiple ownership rules in some way, for example that a CATV operator not be allowed to own a television station in or serving the same community, or (an extreme suggestion) that CATV's be limited to one signal. With respect to the first suggestion, there is something to be said in its favor; a CATV owner might perhaps not be as aggressive in promoting and developing his regular station as would another, because of possibly conflicting interests. But this is balanced by the fact that in a small market perhaps the CATV operator is the only one who is likely to build a station, having profited, and built up set circulation, through the CATV. There is absent the other strong consideration present where two regular stations are involved; since the CATV originates no programming, the principle of diversity of viewpoints is not infringed. Accordingly, we do not adopt this suggestion. The second suggestion mentioned is not worth serious consideration, because of the drastic effect on the CATV and the loss of service in the market.

98. Before concluding our considerations in this proceeding, we pass upon a "petition for Reconsideration" filed February 4, 1959, by many of the broadcasters who have commented herein, which was filed in Docket No. 12116 but also relates to the present proceeding. In substance, we are asked in this petition to set aside our Order in Docket No. 12116, to consolidate into one proceeding (Docket No. 12443) all proceedings relating to the "secondary television services" and the authorization and regulation thereof, and to gather data therein as to possible bases upon which VHF boosters might be authorized. As already noted, our decision of December 30, 1958 in Docket No. 12116 not to authorize VHF repeaters has since then been under

continuing review, and we have now concluded that, subject to necessary amendment of the Communications Act, it will be desirable to authorize the use of VHF repeaters under conditions which will ensure due protection against interference to other services including aerial navigation. We do not believe, however, that any useful purpose would be served by consolidating Docket No. 12116 with the instant proceeding. Since amendments to the Communications Act are needed to lay an appropriate foundation for the licensing of VHF repeaters—particularly those already constructed and in operation without prior authorization by the Commission—it would needlessly delay a decision on the separate question to which the instant proceeding is particularly directed, to defer it until Congress is able to act on the legislative recommendations which will be submitted very shortly on VHF repeaters. In paragraph 12 of the Notice of Inquiry with which this proceeding was initiated, we noted the relationship between the specific questions affecting VHF repeaters which were under consideration in Docket No. 12116, and the broader issues under review in this proceeding. We there pointed out, however, that the matters raised in Docket No. 12116 would be dealt with separately in that proceeding, and we find no justification for departing from that procedure.

Conclusions. 99. We have considered herein the problem, the issues raised, and suggested methods of solution. Two of the broadcasters' suggestions, both relating to CATV's, we adopt. These are that CATV systems should be required to obtain the consent of the stations whose signals they transmit and that they should be required to carry the signal of the local station (without degrading it) if the local station so requests. Since both of these steps require changes in the Communications Act, we will shortly recommend to Congress appropriate legislation, as indicated above. The other suggestions, both those regarding legislation and those we could effectuate ourselves, we do not find acceptable, for reasons stated, except to the extent indicated herein.

100. In view of the foregoing; *It is ordered:*

- (1) That the "Petition for Reconsideration" filed May 5, 1958 by Frontier Broadcasting Company et al. in the matter entitled Frontier Broadcasting Company, et al., Complainants, v. J. E. Collier and Carl O. Krummel, d/b as Laramie TV Company et al. is denied;
- (2) That the present proceeding (Docket No. 12443) is terminated.

Adopted: April 13, 1959.

Released: April 14, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,²⁹

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-3290; Filed, Apr. 17, 1959;
8:52 a.m.]

²⁸ Concurring statement of Commissioner Bartley filed as part of the original document.

²⁸ We consider in this connection the desirability of defining CATV's in section 3 of the Act, so as to exclude those which are not likely to have any economic impact, for example systems with fewer than 50 subscribers.

INTERSTATE COMMERCE COMMISSION

[Notice 111]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 15, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61840. By order of April 9, 1959, the Transfer Board approved the transfer to Charles J. Kotwica, doing business as Rome Express of Rome, N.Y., of a portion of Certificate No. MC 92688, and the entire Permit No. MC 96294, issued March 15, 1941, and October 26, 1943, respectively, in the name of George Van Tassell of Cicero, New York, authorizing the transportation as a common carrier of oil and grease in containers, from Philadelphia, Pa., to points in New York; and as a contract carrier of fertilizer materials, from Carteret, N.J., to points in a described area of New York. Bert Collins, 140 Cedar Street, New York, N.Y., for transferee. George Van Tassell, Cicero, N.Y.

No. MC-FC 61933. By order of April 13, 1959, the Transfer Board approved the transfer to Mary C. Antonellis, doing business as L. B. Antonellis & Sons, Quincy, Mass., of certificate in No. MC 93050, issued November 7, 1956, to Lawrence B. Antonellis, Mary C. Antonellis, Executrix, doing business as L. B. Antonellis & Sons, Quincy, Mass., authorizing the transportation of: *General Commodities*, except household goods and commodities in bulk, between certain specified points or areas in Massachusetts, Rhode Island, Connecticut, Maine, New Hampshire, New Jersey and New York. Jeanne M. Hession, 64 Harvest Street, Dorchester, Mass., for applicants.

No. MC-FC 62068. By order of April 10, 1959, the Transfer Board approved the transfer to McKibben Motor Service, Inc., Arlington Heights, Cincinnati, Ohio, of Permit No. MC 32702 Sub 2 issued March 21, 1942, in the name of Ralph T. McKibben of Arlington Heights, Cincinnati, Ohio, authorizing the transportation of roofing, paving, building, and insulating materials, over irregular routes, from Cincinnati and Lockland, Ohio, to points in Boone, Campbell, Galatin, Grant, Kenton and Pendleton Counties, Ky.; and damaged or rejected shipments of the above-specified commodities, over irregular routes, from points in the above-specified Kentucky Counties to Cincinnati and Lockland,

Ohio. James B. Looker, 903 Times-Star Building, 800 Broadway, Cincinnati 2, Ohio, for applicants.

No. MC-FC 62081. By order of April 10, 1959, the Transfer Board approved the transfer to Rye McMillan of Parsons, Tenn., of Permit No. MC 115957 Sub 1, issued July 15, 1957, in the name of Jerry N. Neisler, doing business as Neisler Trucking Service of Lexington, Tenn., authorizing the transportation of untreated wooden cross ties, over irregular routes, from points in Perry, Decatur, and Montgomery Counties, Tenn., to Brookport and points within 10 miles thereof and Carbondale, Ill., and from points in Stewart and Houston Counties, Tenn., to Carbondale, Ill. Rye McMillan, 127 East Main Street, Parsons, Tenn., for transferee and Jerry N. Neisler, c/o Neisler's Tourist Court, Lexington, Tenn., for transferor.

No. MC-FC 62091. By order of April 10, 1959, the Transfer Board approved the transfer to John J. Jones, Evans City, Pennsylvania, of the operating rights in Certificate No. MC 35893, issued August 17, 1943, to Francis S. Blackwood, authorizing the transportation, over irregular routes, of such commodities as are manufactured, processed or dealt in by rubber manufacturers and steel product manufacturers, and equipment, materials, and supplies used in the conduct of such businesses, from Akron, Ohio, to points in Rhode Island, Massachusetts, Connecticut, those in a described portion of New York, and a described portion of New Jersey, tire fabric, from Fall River and New Bedford, Mass., to Akron, Ohio, chemicals, from Naugatuck, Conn., and Akron, Ohio, and scrap tires and tubes, from Boston, Cambridge, New Bedford, Pittsfield, Fall River, and Springfield, Mass., Hartford, Conn., Newark, N.J., and Albany, and New York, N.Y., and points on Long Island, N.Y., to Akron, Ohio. The Transfer Board also approved the substitution of John J. Jones as applicant in Docket No. MC 35893 Sub 2. John R. Meeks, 607 Copley Road, Akron, Ohio, for applicants.

No. MC-FC 62095. By order of April 13, 1959. The Transfer Board approved the transfer to Erwin Hurner of Moorhead, Minn., of Permit No. MC 427 issued January 24, 1950, in the name of George Neddersen doing business as Neddersen Transit of Minneapolis-St. Paul, Minn., authorizing the transportation of such general merchandise as is dealt in by wholesale grocery, fruit, and bakery business houses, and equipment, materials, and supplies used in the conduct of wholesale grocery business, over regular routes, between Minneapolis-St. Paul, Minn., and Fargo, N. Dak.; and with persons who operate wholesale grocery houses, the business of which is the sale of goods, for the transportation of the commodities indicated and in the manner specified below: such merchandise as is dealt in by wholesale and retail grocery business houses, between St. Paul, Minn., and Fargo, N. Dak. Service is authorized to and from the intermediate points of Minneapolis, St. Cloud, and Detroit Lakes, Minn. Donald R. Hansen, 504 Black Building, Fargo, N. Dak., for applicants.

No. MC-FC 62109. By order of April 10, 1959, the Transfer Board approved the transfer to Valley Transportation Co., Inc., Borough of Upper Saddle River, New Jersey, of Certificate No. MC 78123 issued September 16, 1941, to John A. Brown (Olive C. Brown, executrix), Ridgefield Park, New Jersey, authorizing the transportation of: Passengers and their baggage, restricted to traffic originating in the territory indicated, in round trip charter operations, over irregular routes, from points and places in Bergen, and Hudson Counties, N.J., to points and places in New York, and return. August W. Heckman, Attorney for Transferee, 880 Bergen Ave., Jersey City 6, N.J., and Alfred L. Kettell, Counsel for Transferee, 662 Newark Avenue, Jersey City 6, N.J., and Raymond H. Flanagan, Counsel for Transferor, 124 Park Avenue, East Rutherford, N.J.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-3242; Filed, Apr. 17, 1959;
8:45 a.m.]

[Rev. S.O. 562, Taylor's I.C.C. Order 99-A]

ANN ARBOR RAILROAD CO.

Diversion or Rerouting of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 99 and good cause appearing therefor:

It is ordered, That:

(a) Taylor's I.C.C. Order No. 99, be, and it is hereby vacated and set aside.

(b) Effective date: This order shall become effective at 12:00 noon, April 13, 1959.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Federal Register Division.

Issued at Washington, D.C., April 13, 1959.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 59-3243; Filed, Apr. 17, 1959;
8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24D-1547]

RED LANE CALCAREOUS SINTER CO., INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 14, 1959.

I. Red Lane Calcareous Sinter Co., Inc., a Wyoming Corporation, Thermopolis, Wyoming, filed with the Commission on January 3, 1955, a notification and

Rule 219(b) statement, and filed amendments thereto, relating to an offering of 150,000 shares of its 10 cents par value common stock at 10 cents per share for an aggregate of \$15,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder; and

II. The Commission has reasonable cause to believe that the terms and conditions of Regulation A have not been complied with in that Red Lane Calcareous Sinter Co., Inc., has failed to file reports of sales on Form 2-A as required by Rule 224.

III. *It is ordered*, Pursuant to Rule 223(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this Order of Suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 59-3262; Filed, Apr. 17, 1959;
8:48 a.m.]

[File No. 24D-1965]

BONUS URANIUM, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 14, 1959.

I. Bonus Uranium, Inc., a Delaware corporation, 1154 Bannock Street, Denver 4, Colorado, filed with the Commission on October 28, 1955, a notification and offering circular relating to an offering of 3,000,000 shares of its 1 cent par value common stock, at 10 cents per share, for an aggregate of \$300,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b)

thereof and Regulation A, promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that Bonus Uranium, Inc. has failed to file reports of sales on Form 2-A, as required by Rule 224; and

B. The notification and offering circular contain untrue statements of material facts, and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, concerning, among other things the failure to disclose the current status of performance of assessment work on the company's unpatented mining claims, and that the underwriter named in the filing terminated its underwriting agreement with the company.

C. The offering, if made on the basis of the offering circular filed, without appropriate disclosure of the foregoing matters, would operate as a fraud and deceit upon purchasers.

III. *It is ordered*, Pursuant to Rule 223(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this Order of Suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 59-3264; Filed, Apr. 17, 1959;
8:48 a.m.]

[File No. 24D-1901]

STARFIRE URANIUM AND DEVELOPMENT CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 14, 1959.

I. Starfire Uranium and Development Corporation, 11 South Main Street,

Tooele, Utah, filed with the Commission on August 24, 1955, a notification on Form 1-A and offering circular relating to an offering of 13,000,000 shares of its 2 cents par value common stock at 2 cents per share for an aggregate of \$260,000, and filed various amendments thereto, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder; and

II. The Commission has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that Starfire Uranium and Development Corporation has failed to file reports of sales on Form 2-A as required by Rule 224; and

B. The notification and offering circular contain untrue statements of material facts, and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, concerning, among other things:

1. Failure to reflect the status of performance of assessment work on the company's unpatented mining claims;

2. Failure to reflect the status of a contract to purchase unpatented mining claims;

C. The offering, if made on the basis of the offering circular filed, without appropriate disclosure in the foregoing matters, would operate as a fraud and deceit upon purchasers.

III. *It is ordered*, Pursuant to Rule 223(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

Notice is hereby given, that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this Order of Suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F.R. Doc. 59-3263; Filed, Apr. 17, 1959;
8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—APRIL

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